

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1934 of 2024

Arising Out of PS. Case No.-740 Year-2018 Thana- MOTIHARI MUFASIL District- East
Champaran

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XXX Son of XXX Under the guardianship of his father, namely XXX, Son of
XXX, Resident of village - Bhataha, P.S.- Motihari Muffasil, District - East
Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Singh, Advocate

For the Respondent/s : Mr. Bal Mukund Prasad Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 3 20-07-2024 1. Mr. Ajay Kumar Singh, learned counsel appearing
for the appellant and Mr. Bal Mukund Prasad Sinha, learned
APP appearing for the State are present and heard.
2. The instant appeal has been preferred under Section
101(5) of the Juvenile Justice (Care and Protection of Children)
Act, 2015 against the order dated 23.03.2024 passed by learned
1st Additional Sessions Judge-cum-Special Judge, Children's
Court, East Champaran at Motihari, in connection with
Children's Trial No. 05 of 2019, arising out of Muffasil P.S.
Case No. 740 of 2018, whereby and whereunder the appellant's
prayer for bail has been rejected.
3. Mr. Ajay Kumar Singh, learned counsel for the
appellant submits that this is the third attempt of the appellant to



get the relief of bail and earlier on two occasions he first approached to the trial court for getting the relief of bail and thereafter approached to this court after his prayer was rejected by the trial court, by way of Cr. Appeal (SJ) No. 1354 of 2024 and in the order dated 10.10.2023 passed in Cr. Appeal (SJ) No. 2206 of 2023 the trial court was directed to expedite and conclude the trial of the appellant in the next four months from the date of the said order and the Cr. Appeal (SJ) No. 1354 of 2024 preferred by this appellant was rejected on technical reason. Learned counsel further submits that the order impugned clearly goes to show that out of 12 chargesheet witnesses, only 5 witnesses have been examined till date though 3 witnesses have been given up but still 4 witnesses remain to be examined and the said witnesses are official witnesses so now the release of the appellant on bail will not adversely affect the prosecution's case and further there is no chance of conclusion of the appellant's trial in near future. It is further submitted that the appellant has been languishing in jail since 14.12.2018.

4. Mr. Bal Mukund Prasad Sinha, learned APP for the state has opposed this appeal.

5. Having regard to the above submissions and mainly taking into account the custody period of the appellant which



has been more than 5 years and still four witnesses of the prosecution remain to be examined in the trial of the appellant as reflects from the order impugned and the appellant has spent a considerable period in Remand Home and furthermore all non-official witnesses have been examined in the trial of the appellant, so considering these facts the appellant now deserves to the privilege of bail. Accordingly, let the appellant named-above be released on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, Children's Court, East Champaran at Motihari, in connection with Children's Trial No. 05 of 2019, arising out of Muffasil P.S. Case No. 740 of 2018 on the following conditions:

- (i) One of the bailors shall be father or mother of the appellant, who shall file his/her undertaking before the trial court at the time of furnishing bail bond to this effect that he/she will take care of the appellant after his release from the remand home during the trial period.
- (ii) Learned trial court shall call for progress report from the concerned regarding the development of the appellant particularly with regard to his educational development after a gap of every six months during the period of trial and if any adverse to the development of the appellant or appellant's further involvement in any criminal activity is found then the trial court shall take serious action against the appellant by taking him into custody.
- (iii) If the appellant affects or prejudices any witness of the prosecution or any evidence concerned to the



alleged offence during his trial then also the trial court shall take serious action against the appellant by taking him into custody.

6. In the result, the instant appeal stands allowed and the order impugned is hereby set aside.

(Shailendra Singh, J)

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