

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3905 of 2023

Arising Out of PS. Case No.-219 Year-2020 Thana- BUXAR INDUSTRIAL District- Buxar

XXXXXXXX Son of XXXXXXXX Resident of Village- Badki Sarimpur, P.S.-
Buxar (Ind.), Distt- Buxar, Under The Guardianship of His Father Namely
XXXXXXXXXXXX Male, Aged About 53 Years, Resident of Vilalge- Badki,
Sarimpur, P.S.- Buxar (Ind.), Dist- Buxar

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Setu Prateek, Adv.

For the Respondent/s : Mr. Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 10-01-2024

1. Heard learned counsel for the parties.

2. This appeal has been preferred against the order dated 27.07.2023 passed by the learned Court of A.D.J.-I-cum Special Judge, (SC/ST & Children Court), Buxar in connection with Child Case No.04 of 2022 arising out of Buxar (Industrial) P.S. Case No. 219 of 2020 registered for the offence(s) punishable under Section(s) 302, 504, 506 read with Section 34 of the Indian Penal Code, Section 27 of the Arms Act and Sections 3(1)(r)(s) and 3(2)(v) of the SC/ST (POA) Act, whereby and whereunder the court concerned rejected the bail prayer of the appellant from which being aggrieved and dissatisfied, the instant appeal has been filed, under Section 101(5) of Juvenile Justive Act.

3. In respect of prayer for bail made by the appellant,



it is submitted by his learned counsel that the appellant is not named in the FIR and four co-accused persons have been named in the FIR who have been granted bail by different Benches of this Court vide orders dated 27.07.2021, 06.09.2021, 08.09.2021 and 13.08.2021 passed in Cr. Apps.(SJ) No. 2674/2021, 2932/2021, 3010/2021 and 3095/2021 respectively, though against the appellant, there are seven cases but out of these cases, he has been acquitted in six cases and in the 7th case, he is on bail and so far as the merit of the allegation is concerned, in respect of appellant's involvement in the alleged crime, the prosecution is mainly relying upon the confessional statement of this appellant and co-accused persons but except this, there is no material against him to show his connection to the alleged crime of murder. Further submission is that the appellant has spent 2 years and 11 months in observation home till date and his trial is at initial stage and there is no direct or indirect admissible evidence against him.

4. Learned APP for the State has opposed the above-mentioned prayer for bail and submitted that as per confessional statement of accused persons, the appellant was one of the assailants who fired at the deceased and he is stated to be the main accused and the trial court has rightly rejected his bail



prayer.

5. Considering the above submissions and mainly taking into account the facts that the appellant is not named in the FIR and other co-accused persons who are named in the FIR are on bail and the appellant has been declared juvenile and he has undergone sufficient period in protective custody, though he has criminal antecedent of seven cases but out of these cases as per statement made in para 3 of the memo of appeal, he has been acquitted in six cases and in the 7th case, he is on bail and in respect of appellant's involvement in the alleged crime of the present matter, the prosecution is mainly relying upon his and co-accused persons' statement given before the police but except this, the prosecution has not brought any other material in the knowledge of this Court to show his involvement in the alleged crime. In my opinion, in the said circumstances, the appellant 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 A.D.J.-I-cum Special Judge, (SC/ST & Children Court), Buxar in connection with Child Case No.04 of 2022 arising out of Buxar (Industrial) P.S. Case No. 219 of 2020 **on the following conditions :-**



(i) The appellant shall be released after framing of charges if the charges have not been framed and one of the bailors shall be his father or mother who shall file his/her undertaking before the learned trial court at the time of submission of bail bond to this effect that he/she shall take care of the appellant after his release during the trial and if the appellant's further involvement in a criminal matter happened subsequent to the commission of the present matter is found then the learned trial court shall take serious action against him by cancelling his bail bond.

(ii) After the gap of every six months during trial period, the learned trial court shall call for a report from concerned Police Station regarding the behaviour and conduct of the appellant as well as his activity and if any adverse report in respect of his conduct/behaviour is found then the learned court below shall take serious action against him after being satisfied with the said report.

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

(Shailendra Singh, J)

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