

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3883 of 2024

Arising Out of PS. Case No.-24 Year-2019 Thana- BAIKUNTHPUR District- Gopalganj

XXX, S/o Dhurupdev Ray @ Dhurpdev Prasad Yadaw R/o Village-
Baikunthpur, P.O- Dighwa Dibauli, P.S- Baikunthpur, District- Gopalganj
... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr. Jeetendra Narayan, Advocate
For the Respondent/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 05-10-2024 Heard learned counsel for the appellant and learned
APP for the State.

2. This appeal has been preferred for setting aside the order dated 21.10.2022 passed by learned Additional Sessions Judge-1st-cum-Special Judge, (Children Court), Gopalganj in connection with T.R. No. 12 of 2022 corresponding to Special Case No. 10 of 2022 arising out of Baikunthpur P.S. Case No. 24 of 2019 whereby and whereunder the learned trial court has rejected the prayer for bail of the appellant. He has no criminal antecedent. He is in custody since 02.02.2019.

3. This is the fourth attempt of the appellant to obtain bail in connection with Baikunthpur P.S. Case No. 24 of 2019 in which chargesheet has been submitted for the offence under Sections 364-A, 302, 201 read with 34 of the Indian Penal Code.

4. Earlier, this appellant had moved this Court in

Criminal Miscellaneous No. 3468 of 2021, Criminal Miscellaneous No. 46674 of 2021 and Criminal Appeal (SJ) No. 4136 of 2022 for grant of bail. Prior to his third attempt in Criminal Appeal (SJ) No. 4136 of 2022, the appellant was declared juvenile by the learned Juvenile Justice Board, Gopalganj.

5. While rejecting the prayer for bail of the appellant vide order dated 10.04.2024, this Court took note of the submission of learned counsel for the informant that now the trial is on the verge of closure and only mother of the deceased and the I.O. of the case were still required to be examined.

6. Learned counsel for the petitioner submits that he has instruction to say that while mother of the deceased has already been examined, the I.O. has still not been examined in this case.

7. Attention of this Court has been drawn towards the observations in paragraph '9' of its order dated 10.04.2024 passed in Criminal Appeal (SJ) No. 4136 of 2022 wherein this Court has taken note of the fact that the appellant had already remained in incarceration for five years and it was high time for the learned trial court to ensure conclusion of trial within a reasonable period. The Superintendent of Police, Gopalganj was directed to ensure that the I.O. of the case must appear on the

date fixed by the learned trial court for his appearance and all endeavours be made to conclude the trial within a period of three months from the date of receipt/production of a copy of this order.

8. Learned counsel submits that the direction of this Court to the Superintendent of Police, Gopalganj has not yielded any result and the I.O. has not been produced for examination as a result whereof the appellant has been in incarceration since 02.02.2019.

9. Learned Additional Public Prosecutor for the State has though opposed the prayer for bail of the appellant but considering the circumstances on the record, the fact that this appellant is said to have been declared juvenile, he has no criminal antecedent and he has remained in incarceration for more than five and half years during trial but despite direction of this Court, the I.O. of the case has not appeared for his deposition which has resulted in pendency of the trial, this Court sets aside the impugned order and directs release of the appellant above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-1st-cum-Special Judge, (Children Court), Gopalganj in connection with T.R. No. 12 of 2022 corresponding to Special Case No. 10

of 2022 arising out of Baikunthpur P.S. Case No. 24 of 2019, subject to the condition that the learned trial court shall verify from the records that the I.O. of the case has still not been examined and the submission made before this Court in this regard is correct.

10. And further condition that one of the sureties shall be the father of the petitioner who will also furnish an undertaking that if released on bail, the petitioner shall not be allowed to indulge in any unlawful act and all care will be taken that he does not fall in the company of anti-social elements and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

11. And it is further ordered that the Probation Officer attached to the Juvenile Justice Board, Gopalganj shall keep a vigil over the petitioner and will be submitting his periodical reports to the Juvenile Justice Board as regards the conduct of the petitioner.

12. This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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