

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4254 of 2023

Arising Out of PS. Case No.-485 Year-2022 Thana- UDWANTNAGAR District- Bhojpur

1. A1, Son of XXXXXX Resident of Village- Bampali, P.S.- Udwanthnagar, Dist- Bhojpur (Uncle) XXXXXX, Aged About 34 Years, Gender Male, Son of XXXXXX, Residents of Village- Bampali, P.S.- Udwanthnagar, Dist- Bhojpur
2. A2, Son of XXXXXX, Resident of Village- Bampali, P.S.- Udwanthnagar, Dist- Bhojpur (Uncle) XXXXXX, Aged About 34 Years, Gender Male, Son of XXXXXXXX, Residents of Village- Bampali, P.S.- Udwanthnagar, Dist- Bhojpur

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Chakrapani, Adv. Mr. Dipak Kumar, Adv. Mr. Madhuresh Singh, Adv.
For the State	:	Mr. Mukeshwar Dayal, APP
For the Informant	:	Ms. Aashi Wats, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 23-04-2024

1. Heard learned counsels for the parties.

2. This appeal has been preferred under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act against the order dated 16.03.2023 passed by the court of learned 1st Additional Sessions Judge, Bhojpur at Ara, in connection with Special Children Case No. 08/2023 arising out of Udwanthnagar P.S. Case No. 485/2022 registered for the offences under sections 363 and 365 of the Indian Penal Code and later on section 302 and 201 of IPC were added, whereby and whereunder the court concerned rejected the bail prayer of



the appellants.

3. Mr. Chakrapani, learned counsel for the appellants submits that in the instant matter, the most important witness of the prosecution is cousin sister of the informant, named Nidhi Kumari, who firstly informed the informant about the commission of the alleged occurrence but in the cross-examination, she deposed that she did not see the appellants killing the victim and other prosecution witnesses are not said to be eye-witnesses. Learned counsel further submits that the appellants were not involved in any criminal activity in the past and the social investigation report is not against them and the prosecution's material witnesses have been examined in the trial and only three witnesses are to be examined and the appellant A2 is not even named in the FIR. Learned counsel further submits that both the appellants have been declared juvenile and they are being tried as child in conflict with law in the Children court and at the time of commission of the alleged offence, the age of the appellants A1 and A2 was between 17-18 years and 17-19 years respectively and an uncle of the appellants is a teacher who is also here deponent and he is ready to take care of the appellants after their release and the appellants are willing to get/receive further education and they have been under observation in the Remand Home since 22.12.2022 and



17.10.2022 respectively.

4. Ms. Aashi Wats, learned counsel for the informant as well as Mr. Mukeshwar Dayal, learned APP for the State has opposed the bail prayer of the appellants and submitted that against the appellants, there is serious allegation and they brutally assaulted the victim and finally killed him and thereafter, they threw his body near or on railway track.

5. Heard both the sides and perused the order impugned, the social investigation report and the case diary. The appellants have spent more than one year in remand home which is sufficient protective custody undergone by them and there is no allegation of misconduct by them in the remand home during their custody period and admittedly, the appellants were students when the alleged occurrence took place and there is no material to show that the appellants remained involved in any criminal activity in the past, considering these facts, a lenient approach can be taken in respect of the appellants. Accordingly, let the appellants 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, Bhojpur at Ara, in connection with Special Children Case No. 08/2023 arising out of Udwantnagar P.S. Case No. 485/2022 **on the following**



conditions :-

(i) One of the bailors shall be the uncle of the appellants, who is deponent in this appeal and shall file his undertaking before the learned trial court at the time of furnishing of bail bond to this effect that he shall take care of the appellants after their release during trial and get the appellants **admitted in school/college for** their further education and if, appellants’ further involvement in any criminal matter subsequent to the commission of the present matter is found then the learned trial court shall take serious action against him/them by cancelling his/their bail bond.

(ii) After the gap of every six months during trial period, the learned trial court shall call for a report from the concerned regarding the **educational development** of the appellants and if any contrary to their educational development is found then the learned trial court shall take serious action against them/him by cancelling his/their bail bond.

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

(Shailendra Singh, J)

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