

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4488 of 2023

Arising Out of PS. Case No.-135 Year-2023 Thana- BUXAR District- Buxar

XXXXXX Son Of XXXXXX Under The Guardianship Of His Father Namely
XXXXXX, Aged About 56 Years, Resident Of Village - Kali Mandir Shanti
Nagar, P.S. - Buxar Town, District - Buxar

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Mohit Shriwastava, Advocate

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

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 18-04-2024

1. Heard the parties.

2. The instant appeal has been filed under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act, against the order dated 02.09.2023 passed by learned 1st Additional District and Sessions Judge-cum- Special (SC/ST & Children Court), Buxar, in connection with Adult Case No. 15 of 2023, arising out of Buxar Town P.S. Case No. 135 of 2023, registered for the offence(s) punishable under Section(s) 341, 323, 307, 120B, 34 of the Indian Penal Code and Sections 25(1-b)a, 26, 27, 35 of Arms Act and later on Section 302 of Indian Penal Code has been added, whereby and whereunder the prayer for bail made by the appellant has been rejected.

3. Mr. Mohit Shriwastava, learned counsel for the



appellant submits that at the time of commission of the alleged occurrence the appellant was 17 years old and he has been declared juvenile vide order dated 23.05.2023 passed by the Juvenile Justice Board, Buxar and thereafter his case was sent to Children Court for trial, considering the seriousness of the allegation as well as his age. He further submits that the appellant is an illiterate person and belongs to very poor family and he has been languishing in remand home since 28.03.2023 and the Social Investigation Report is not against him and in the past he did not remain involved in any type of criminal activity and the rejection of appellant's bail prayer by the trial court is against the spirit of the Section 12 of Juvenile Justice Act.

4. Mr. Anand Mohan Prasad Mehta, learned APP appearing for the State has opposed the prayer for bail of the appellant and submitted that the appellant's bail prayer has been rightly rejected by the trial court as against him there is serious allegation and he said to be one of the main accused.

5. Considering the facts and circumstances of this case and above submissions and Social Investigation Report and also, the custody period of the appellant in remand home which is sufficient to keep him in protective custody and there is no material to show any adverse to his conduct during the period of his custody in remand home and as per the Social Investigation



Report and case diary, the appellant has not been said to be involved in any criminal activity in the past and there are several major family members in his family, in my opinion, the appellant is entitled to be released on bail from the remand home. Accordingly, **let the appellant named-above be released on bail after framing of charge** 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 District and Sessions Judge-cum- Special (SC/ST & Children Court), Buxar, in connection with Adult Case No. 15 of 2023, arising out of Buxar Town P.S. Case No. 135 of 2023 on the following conditions:

- (i) One of the bailors shall be father or brother of the appellant, who shall file his undertaking before the trial court at the time of furnishing bail bond to this effect that he 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, after a gap of every six months during the period of trial if the 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. The trial court is directed to expedite the case and take step to frame the charges upon the appellant as per procedure of law as early as possible.

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

(Shailendra Singh, J)

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