

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4622 of 2024

Arising Out of PS. Case No.-283 Year-2024 Thana- BHABHUA District- Kaimur (Bhabua)

XX, aged about 17 years (Male), Son of Upendra Bind, R/o village- Gangapur, P.S-Durgawati, District- Kamur, Under the guardianship of his father Upendra Bind, aged about 44 years, Male, S/O Rajeshwar Bind, R/o village- Gangapur, P.S- Durgawati, District- Kaimur.

... .. Appellant

Versus

1. The State of Bihar.
2. Avinash Kumar Pandey, S/o- Late Ashok Kumar Pandey, R/o- Bhabua, Ward No.-12, P.O. + P.S.- Bhabua, Dist- Bhabua (Kaimur)

... .. Respondents

Appearance :

For the Appellant	:	Mr. Abhash, Advocate
For the State	:	Mr. Yogendra Kumar, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 03-10-2024 Heard learned counsel for the appellant and learned Spl. P.P. for the State.

2. Though, the appellant has given full description in the appeal, it would be inappropriate to disclose his identity in view of the statutory provisions prescribed under Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015. He is being referred to in the cause title as “XX”.

3. Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar manner.

4. This Criminal Appeal has been preferred by the appellant against the order dated 25.07.2024, passed by learned



Additional District and Sessions Judge-I-cum-Special Judge, Kaimur at Bhabua, in A.C. Trial No. 12 of 2024, arising out of Bhabhua P.S. Case No. 283 of 2024, registered for the offences punishable under Sections 363, 368, 370, 376, 511/34 of the I.P.C. and Sections 4 and 8 of the POCSO Act, whereby the application filed by the appellant for grant of regular bail was rejected.

5. As per the prosecution case, when the informant informed Bhabua Police Station about missing of his daughter and when he returned to home, his neighbours expressed the possibility of his daughter being in the house of the co-accused Tetari Devi. When the informant and others tried to enter the house of the co-accused Tetari Devi, there his daughter was found in an unconscious state, hidden from a basket under the bed of the room of Sonu (petitioner) and the co-accused Sushila. The informant apprehends that the accused persons kidnapped his minor daughter and kept her hidden to sell her.

6. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case due to quarrel with the children of the informant. It is further submitted that the statement of the victim under Section 164 of the Cr.P.C. has been recorded at the instance of her father. There is no



medical report available on the record to support the allegation made in the F.I.R. It is further submitted that other co-accused persons, namely, Tetari Devi @ Tetari Devi and Shakuntala Devi have already been granted bail by a Bench of this Court vide Cr. Misc. No. 42892 of 2024 under order dated 26.06.2024 and the other co-accused person, namely, Sushila Devi, has also been granted bail by a Bench of this Court vide Cr. Misc. No. 43918 of 2024 under order dated 09.07.2024. The appellant has clean antecedent as stated in paragraph no. 3 of the appeal. He is in custody since 20.05.2024 in this case.

7. Learned Spl. P.P. for the State has vehemently opposed the prayer for bail of the appellant. It has further been pointed out that the release of the appellant would defeat the ends of justice.

8. As per the social investigation report as well as the social background report, this Court finds that there is no adverse remark against the appellant and further the presumption of innocence of the child cannot be ruled out.

9. Further, a Division Bench of this Court in ***Lalu Kumar and Ors. Vs. State of Bihar [(2019) 4 PLJR 833]***, has held that seriousness and gravity of the offence alleged cannot be made a ground for rejecting bail under the Act of 2015.



10. Accordingly, the order dated 25.07.2024, passed by learned Additional District and Sessions Judge-I-cum-Special Judge, Kaimur at Bhabua, in A.C. Trial No. 12 of 2024, arising out of Bhabhua P.S. Case No. 283 of 2024, is set aside and the present criminal appeal is allowed.

11. Let the appellant who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge-I-cum-Special Judge, Kaimur at Bhabua, in connection with A.C. Trial No. 12/2024, arising out of Bhabhua P.S. Case No. 283 of 2024, subject to following conditions:-

(i) Natural guardian/father will furnish an undertaking that upon release on bail the appellant will not be permitted to go into contact or association with any known criminal or allowed to be exposed to any moral, physical, or psychological danger and further that the father will ensure that the juvenile will not repeat the offence.

(ii) Natural guardian/father will further



furnish an undertaking to the effect that the juvenile will pursue his study at the appropriate level which he would be encouraged to do besides other constructive activities and not be allowed to waste his time in unproductive and excessive recreational pursuits.

(iii) The appellant will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

12. Accordingly, the present criminal appeal stands allowed.

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(Chandra Prakash Singh, J)

