

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5055 of 2023

Arising Out of PS. Case No.-410 Year-2021 Thana- BHORE District- Gopalganj

XXXXXXXXX S/O XXXXX R/O VILLAGE- BHOPATPUR
(BHOPATPURA), P.S- BHORE, DISTT.- GOPALGANJ, THROUGH HIS
FATHER AND NATURAL GUARDIAN XXX, MALE AGED ABOUT 48
YRS SON OF LATE XXXXX, R/O VILLAGE- BHOPATPUR
(BHOPATPURA), P.S- BHORE, DISTT.- GOPALGANJ.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Lokesh Kumar Singh, Adv.
For the Respondent/s : Mr.Abhay Kumar,

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 05-01-2024 1. Heard learned counsel for the appellant and learned
APP for the State.

2. The instant appeal has been filed under Section
101(5) of Juvenile Justice (Care and Protection of Children) Act,
2015 against the order dated 08.09.2023 and corrected on
03.10.2023 passed by learned Additional Sessions Judge 1st-
cum-Special Judge, Children's Act, Gopalganj in connection
with Special Case No. 12 of 2023, arising out of Bhore P.S.
Case No. 410 of 2021, registered for the offences punishable
under Sections 302, 120B read with 34 of IPC, whereby the
prayer for bail made by the appellant has been rejected.

3. The main submissions advanced by learned counsel



for the appellant are that the appellant has been languishing in observation home for about 9 ½ months and he is not named in the FIR and the FIR was lodged on 19.09.2021 and after a long gap on 18.05.2022 the informant filed a petition making allegation against the appellant and during investigation, only one witness claimed to have seen the deceased going along with the appellant and merely on the basis of last seen theory the appellant has been dragged in the present matter but except this, there is no material against him and the allegation made by the informant at a later stage is not believable. Further submissions are that the appellant has got no criminal antecedent and he is student of B.A. and the examination of his first semester is scheduled to be held from 08.01.2024 and in the Social Investigation Report there is nothing against him and the parents of the appellant are ready to take care of him after his release.

4. Learned APP appearing for the State has opposed the prayer for bail of the appellant.

5. Considering the above submissions and mainly taking into account the appellant's custody period and also that he has spent sufficient period in protective custody and further keeping him behind the bar will ruin his educational career and as per case diary there is no direct evidence against him except



the allegation that the deceased was lastly seen with the appellant at the relevant time of occurrence and the social investigation report is not against him, in my opinion, the appellant deserves to be released from the observation home. 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 Additional Sessions Judge 1st-cum-Special Judge (Children Act), Gopalganj in connection with Special Case No. 12 of 2023, arising out of Bhore P.S. Case No. 410 of 2021 on the following conditions:-

(i) One of the bailors shall be father of the appellant.

(ii) The appellant's father shall file written undertaking before the trial court at the time of furnishing bail bond that he will take care of the appellant after his release from the observation home during the pendency of trial and the trial court shall call for progress report regarding the development of the appellant particularly with regard to his educational development after a gap of every six months during the period of trial and if any adverse to the development of the appellant or 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 cancelling his bail bond.

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

(Shailendra Singh, J)

BKS/-

U		T	
---	--	---	--

