

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5690 of 2023

Arising Out of PS. Case No.-217 Year-2023 Thana- DALSINGHSARAI District- Samastipur

XXXXXXXXXXXX S/o- XXXXXXXXX R/o - Village - Fateha, P.S.-
Bachhwara, District - Begusarai Under guardianship of His father namely
XXXXXXXXXX S/o Dularchand Ram R/o- Village - Fateha, P.S.- Bachhwara,
District- Begusarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Ms. Nevedita Nirvikar, Sr. Advocate Ms. Supragya, Advocate Mr. Bipin Kumar, Advocate
For the Respondent/s	:	Mr. Abhay Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 18-03-2024

1. Heard learned counsel for the parties.

2. This appeal has been preferred against the order dated 07.11.2023 passed by the Court of learned Special Judge, Children Court -cum-A.D.J., Samastipur, in connection with Dalsingsarai P.S. Case No. 217 of 2023 registered for the offence(s) under Section(s) 302/34 of the Indian Penal Code and Section 27 of Arms Act, whereby and whereunder the court concerned rejected the bail prayer of the appellant from which being aggrieved and dissatisfied, the instant appeal has been filed under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act.

3. Ms. Nevedita Nirvikar, Sr. Advocate, appearing for



the appellant submits that the appellant has been declared juvenile (child in conflict) and at the time of the commission of the alleged occurrence, his age was 16 years and 7 months and as per the prosecution's story, the alleged occurrence was not pre-planned and the same took place during marriage ceremony when as per prosecution's allegation, the appellant and some others were indulged in celebratory firing which resulted in fire-arm injuries to the victim. She further submits that the appellant has been languishing in remand home since 20.06.2023 and the social investigation report is not against him and he has spent considerable protective custody in remand home. She further submits that the appellant's mother is a teacher and there are several major family members in his family, who are ready to take care of the appellant after his release and the appellant has passed Intermediate class and is willing to pursue his further education and keeping him in remand home, will destroy his educational career and he has got no criminal antecedent.

4. Mr. Abhay Kumar, learned APP appearing for the State has opposed the bail prayer of the appellant and submitted that in the light of the seriousness of the allegation, the learned trial court has rightly rejected the appellant's bail prayer.

5. Considering the above submissions and mainly



taking into account the social investigation report which is not against the appellant and also, the genesis of the occurrence and the facts that the appellant has spent considerable period in protective custody and there are several major family members including her mother, who is a teacher in his house, In my opinion, the appellant deserves to the privilege of bail. 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 Special Judge, Children Court -cum-A.D.J., Samastipur, in connection with Dalsingsarai P.S. Case No. 217 of 2023 **on the following conditions :-**

(i) One of the bailors shall be mother of the appellant, who shall file her undertaking before the learned trial court at the time of furnishing of bail bond to this effect that she shall take care of the appellant after his release during trial and get the appellant admitted in school/college for his further education and if appellant's further involvement in any criminal matter happened subsequent to the commission of the present matter is found then the learned trial court shall take serious action against him by cancelling his 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 appellant, if any contrary to his educational development is found then the learned trial court shall take serious action against him 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)

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