

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5707 of 2023

Arising Out of PS. Case No.-342 Year-2022 Thana- BAGHA District- West Champaran

XXXX SON OF XXXX UNDER GUARDIANSHIP OF HIS FATHER
NAMELY, XXXX RESIDENT OF VILLAGE - NARAIPUR, PS- BAGAHA
(PATKHAULI), DISTT- WEST CHAMPARAN

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mrs. Perna Anand, Advocate
For the State	:	Mr. S.A. Ahamad, APP
For the Informant/s	:	Mr. Avinash Raj, Advocate

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 04-04-2024 1. Heard learned counsel for the Appellant, learned
counsel for the Informant and learned APP for the State.

2. The instant appeal has been preferred under Section
101(5) of Juvenile Justice (Care and Protection of Children) Act,
2015 against the order dated 26.09.2023 passed by the Court of
learned Additional Sessions Judge- 1st , Bettiah, West
Champaran in connection with B.P. No.3152/2023 (Spl. Child-
04/2023), arising out of Bagaha(Patkhauli) P.S. Case No. 342 of
2022, registered for the offence punishable under Section 302 of
the Indian Penal Code, whereby and whereunder the appellant's
prayer for bail has been rejected.

3. Mrs. Perna Anand, learned counsel appearing for
the appellant submits that the appellant has been declared
juvenile and he is facing trial as a Child in Conflict With Law in



the Children Court and his age was below the eighteen years at the time of commission of the alleged occurrence and his trial has commenced and three prosecution witnesses have been examined till date. It is further submitted that against the appellant there is no criminal antecedent and he has not remained involve in any criminal activity in the past and there are several major family members in his family who are ready to take care of the appellant after his release. Learned counsel further submits that the appellant was studying when he was taken into custody and he is willing to pursue his education and he has spent about 23 months in Remand Home till date which is sufficient period to keep him under observation.

4. Mr. Avinash Raj, learned counsel appearing for the informant has vehemently opposed this appeal and submitted that against the appellant there is serious allegation as he has committed murder of the nephew of the informant and he is the sole accused in the present matter.

5. Learned APP appearing for the State has also opposed this appeal.

6. Considering the above submissions and mainly taking into account the appellant's custody period which he has spent in Remand Home till date and the same is sufficient period



to keep him under observation and there is no any adverse report regarding the appellant's conduct during his present custody and also, taking into account the Probationary Officer's Report which shows that the appellant was studying in class ninth when he was taken into custody and as per above submission, he is willing to pursue his further education and as per the said report he has not remained involve in any criminal activity in the past and the trial of the appellant has commenced and out of eleven prosecution witnesses, three witnesses have been examined, in my opinion, in the light of these circumstances, the appellant deserves to be released from the Remand 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, Bettiah, West Champaran in connection with B.P. No. 3152/2023 (Special Child-04/2023), arising out of Bagaha(Patkhauli) P.S. Case No. 342 of 2022 **on the following conditions :-**

(i) One of the bailors shall be father/mother of the appellant, who shall file his/her undertaking before the learned trial court at the time of furnishing of bail bond to this effect that



he/she shall take care of the appellant after his release during trial and get the appellant admitted in school for his further education and if, appellant's 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 by cancelling his bail bond.

(ii) After a 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 and 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.

(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.

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

(Shailendra Singh, J)

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