

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5713 of 2023

Arising Out of PS. Case No.-485 Year-2022 Thana- UDWANTNAGAR District- Bhojpur

1. A1 Son of XXXXX Under The Guardianship of Appellant No.1 Father Namely XXXXX, Son of Late XXXX, Resident of Village- Bampali, P.S.- Udwant Nagar, District- Bhojpur, Ara
2. A2 Son of XXXX Under The Guardianship of Appellant No.2 Father Namely XXX, Son of XXX, Resident of Village- Bampali, P.S.- Udwant Nagar, District- Bhojpur, Ara

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Manoj Kumar, Adv.
For the State	:	Ms. Abha Singh, APP
For the Informant	:	Ms. Aashi Wats, Adv.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 23-04-2024

1. Heard learned counsels for the parties.

2. This appeal has been preferred under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act against the order dated 25.11.2023 passed by the court of learned 1st Additional Sessions Judge, Bhojpur at Ara, in connection with Special Children Case No. 08/2023 arising out of Udwantnagar P.S. Case No. 485/2022 registered for the offences under sections 363 and 365 of the Indian Penal Code and later on, sections 302 and 201 of IPC were added, whereby and whereunder the court concerned rejected the bail prayer of the appellants.



3. Mr. Manoj Kumar, learned counsel for the appellants submits that in the instant matter, the most important witness of the prosecution is cousin sister of the informant, named Nidhi Kumari, who firstly informed the informant about the commission of the alleged occurrence but in the cross-examination, she deposed that she did not see the appellants killing the victim and other prosecution witnesses are not said to be eye-witnesses. Learned counsel further submits that the appellants were not involved in any criminal activity in the past and the social investigation report is not against them and the prosecution's material witnesses have been examined in the trial and only three witnesses are to be examined and the appellant A1 is not even named in the FIR. Learned counsel further submits that both the appellants have been declared juvenile and they are being tried as child in conflict with law in the Children court and at the time of commission of the alleged offence, the age of both the appellants was between 16-17 years and the appellants are willing to get/receive further education and they have been falsely implicated in the present matter due to dirty village politics and they have been made accused mainly on the basis of suspicion, being members of the mob and they have been under observation in the Remand Home since 17.10.2022.



4. Ms. Aashi Wats, learned counsel for the informant as well as Ms. Abha Singh, learned APP for the State has opposed the bail prayer of the appellants and submitted that against the appellants, there is serious allegation and they brutally assaulted the victim and finally killed him and thereafter, they threw his body near or on railway track.

5. Heard both the sides and perused the order impugned, the social investigation report and the case diary. The appellants have spent more than one year in remand home which is sufficient protective custody undergone by them and there is no allegation of misconduct by them in the remand home during their custody period and admittedly, the appellants were student when the alleged occurrence took place and there is no material to show that the appellants remained involved in any criminal activity in the past, considering these facts, a lenient approach can be taken in respect of the appellants. Accordingly, let the appellants 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 1st Additional Sessions Judge, Bhojpur at Ara, in connection with Special Children Case No. 08/2023 arising out of Udwanthnagar P.S. Case No. 485/2022 **on the following**



conditions :-

(i) One of the bailors shall be father/mother of the appellants, 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 appellants after their release during trial and get the appellants **admitted in school/college for** their further education and if, appellants' 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/them by cancelling his/their 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 appellants and if any contrary to their educational development is found then the learned trial court shall take serious action against him/them by cancelling his/their 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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