

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.87 of 2024

In
CRIMINAL MISCELLANEOUS No.73669 of 2023

Arising Out of PS. Case No.-141 Year-2022 Thana- SAKRA District- Muzaffarpur

XXXXX, son of XXXXX, R/O Village- Agrail Khurd, P.S- Baligaon District-
Vaishali.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ranjeet Kumar, Advocate

For the Respondent/s : Mr. Brajendra Nath Pandey, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

6 22-04-2024 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, against the order dated 12.09.2023 passed by learned 1st Additional Sessions Judge-cum-Special Judge (Children Act), Muzaffarpur, in connection with Children Case No. 10 of 2023, arising out of Sakra P.S. Case No. 141 of 2022/JJB. 1085 of 2023, registered for the offence(s) punishable under Section(s) 302 of the Indian Penal Code, whereby and whereunder the prayer for bail made by the appellant has been rejected.

3. Mr. Ranjeet Kumar, learned counsel appearing for the appellant submits that the appellant is not named in the FIR,



his name transpired in the confessional statement of co-accused Nitish Kumar @ Nitesh Kumar and he was initially arrested in Sakra P.S. Case No. 357 of 2022 on the basis of the confessional statement of co-accused Nitish Kumar @ Nitesh Kumar and thereafter remanded in three other cases and in the present matter there is no direct evidence against him to show his involvement in the alleged crime. He further submits that the appellant has been languishing in remand home since 10.10.2022 and he is a student of I.T.I. College at Muzaffarpur and he passed matriculation examination in 2nd division and he wants to pursue his further education. He further submits that the appellant has been declared juvenile and he was below 18 years of age at the time of commission of the alleged occurrence and he has spent sufficient period in protective custody and his case is at initial stage.

4. Mr. Brajendra Nath Pandey, learned APP appearing for the State has opposed this appeal and submitted that the instant matter relates to the serious offence and the appellant has remained involved in several criminal cases and there is further possibility of his getting involved in criminal activity after his release.

5. Heard both the sides and perused the order impugned as well as the case diary. Though, the appellant has



remained involved in several criminal cases as per above submission however he has spent more than one year and five months in remand home and the said period is sufficient to keep him in protective custody and the prosecution has not made any allegation of his misconduct in the remand home during the said protective custody period and he is a student of I.T.I College, Muzuffarpur and he wants to pursue his further education, so, keeping the appellant in remand home continuously would hamper his further educational career and the present Social Investigation Report is not against him and there are several major family members in his family under their protection and supervision he may be kept, so in the said circumstances, the appellant deserves to be released from the remand home.

Accordingly, let the appellant named-above be released on bail after framing of charge, if the same has not been framed 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-cum-Special Judge (Children Act), Muzaffarpur, in connection with Children Case No. 10 of 2023, arising out of Sakra P.S. Case No. 141 of 2022/JJB. 1085 of 2023 on the following conditions:

- (i) One of the bailors shall be father or mother of the appellant, who shall file his/her undertaking



before the trial court at the time of furnishing bail bond to this effect that he/she will take care of the appellant after his release from the remand home during the trial period.

(ii) Learned trial court shall call for progress report from the concerned 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 taking him into custody.

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

(Shailendra Singh, J)

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