

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.27 of 2024

Arising Out of PS. Case No.-285 Year-2022 Thana- SHERGHATI District- Gaya

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1. VINAY KUMAR SON OF RAMESWAR MANJHI THROUGH HIS MOTHER MEENA DEVI, WIFE OF LATE RAMESHWAR MANJHI R/O CHITAB KALA, TOLA- NIMHARA, CHITAB KHURD, P.S.- SHERGHATI, DIST.- GAYA
 2. DEVA KUMAR SON OF DEVRAJ MANDAL THROUGH HIS FATHER DEVRAJ MANDAL, SON OF RAMESHAR MANDAL R/O CHITAB KALA, TOLA- NIMHARA, CHITAB KHURD, P.S.- SHERGHATI, DIST.- GAYA

... .. Appellant/s

Versus

THE STATE OF BIHAR PATNA

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Niraj Kumar
For the Respondent/s : Mr.Zeyaul Hoda

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

7 03-05-2024 Heard learned counsel for the appellants and learned
APP for the State.

2. This criminal appeal has been preferred against the judgment dated 18.03.2023 passed in Juvenile Trial No. 16/2022 by learned Special Judge (Children Court), Gaya whereby the learned court below has rejected the prayer for bail of the appellants in connection with Sherghati P.S. Case No. 285/22 registered for the offences under Section 376 (D, B) of Indian Penal Code and under Section 6 of the POCSO Act.

3. Learned counsel for the appellants submits that



both the appellants are under custody since 15.04.2022 for the allegation of commission of rape upon the minor daughter of the informant. Admittedly, they have been declared juvenile after assessment of their age which, at the time of the occurrence, was 16 years 3 months and 8 days.

4. From bare perusal of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, it appears that a juvenile has to mandatorily be granted bail except the conditions provided under proviso of Section 12. These are the three conditions:-

(i) If there is reasonable grounds for believing that the release of the juvenile would likely to bring him into contact of any known criminal.

(ii) If there is likelihood of his exposure to the said person and if there is moral, physical or psychological danger might be possible to be occurred to the juvenile.

(iii) His release would defeat the ends of justice.

5. Neither of these three conditions were mentioned in the impugned order dated 18.03.2023, whereby the learned Court below refused the bail to the appellants.

6. Considering the above-mentioned facts and circumstances, this criminal appeal is allowed and the order



dated 18.03.2023 passed by the learned court below in juvenile Trial No. 16/2022 arising out of Sherghatti P.S. Case No. 285 of 2022 is set aside.

7. Let the appellants, who have already been declared juvenile by the learned Juvenile Justice Board, be released in favour of their respective parents on execution of surety bond of Rs. 10,000/- (ten thousand) to the satisfaction of learned Special Judge (Children Court), Gaya in connection with Juvenile Trial No. 16/22 arising out of Sherghati P.S. Case No. 285 of 2022 with the condition that the mother of appellant no. 1 and father of appellant no. 2 shall furnish an undertaking that while the appellants are on bail, they will not allow the appellants to come in company/association with any criminal or anti social elements and they will take proper care of the appellants. Further, the appellants will be produced as and when required by the court below and shall cooperate during the trial.

(Nawneet Kumar Pandey, J)

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