

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.159 of 2025

Arising Out of PS. Case No.-135 Year-2023 Thana- SAHEBPUR KAMAL District-
Begusarai

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XX, aged about 16 years (Minor), S/o- Anil Mahto, under the guardianship of his mother and Guardian Kavita Devi, aged about 52 years, Female, W/O Anil Mahto, R/O Village- Dumariya, Ward No-7, P.S.- Sahebpur Kamal, Dist- Begusarai.

... .. Appellant

Versus

1. The State of Bihar
2. Babita Devi, aged about 42 years (Female), W/o- Ram Chandra Mochi, R/O Village- Sadpur, Ward No-1, P.S.- Sahebpur Kamal, Dist- Begusarai.

... .. Respondents

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Appearance :
For the Appellant : Mr. Sunil Kumar Yadav, Advocate
For the State : Mr. Syed Ashfaque Ahmad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 03-04-2025 Heard learned counsel for the appellant and learned
Spl. P.P. for the State.

2. Though, the appellant has given full description in the appeal, it would be inappropriate to disclose his identity in view of the statutory provisions prescribed under Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015. He is being referred to in the cause title as “XX”.

3. Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar manner.

4. This Criminal Appeal has been preferred by the



appellant against the order dated 18.10.2024, passed by learned Additional Sessions Judge-Ist-cum-Special Judge, Children Court, Begusarai in connection with Sahebpur Kamal P.S. Case No. 135 of 2023 and J.J.B. Case No. 78 of 2024, registered for the offences punishable under Sections 364, 302, 376, 201 read with Section 34 of the I.P.C. and Sections 4 and 6 of the POCSO Act, by which the learned court below has refused to grant bail to the appellant.

5. As per the prosecution case, on 15.05.2023 at about 2.00 P.M., the minor daughter of the informant was missing. She searched for her on her best level. When her daughter could not be traced out, on 17.05.2023, the informant had given a written application to the police station. It is further alleged that when the villagers went to Bochha Bahiyar to see crops and were sitting under the Pakar Tree to save from extreme hit and there was also a well near the Pakar Tree and bad smell was coming from the said well. When the villagers saw a dead body in the said well. An information was given to the Muiykhia. Thereafter, the informant alongwith her villagers went to Bochha Bahiyar Well and saw the dead body of her minor daughter. It is further alleged that on 14.05.2023 from Mobile No. 9315362217 to the Mobile of the informant bearing Mobile



No. 7631538134, some unknown person had threatened the informant to kidnap her minor daughter and she would be kept in his house forcibly and if any complaint or legal process is done, her daughter would be killed and her dead body would be disappeared. The informant suspected that the person who threatened on her mobile alongwith unknown have kidnapped and killed her daughter and for concealing the dead body threw in the well.

6. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. It is further submitted that the appellant is not named in the F.I.R. and he has been made accused in the present case only on the basis of suspicion. It is further submitted that the deceased was either killed by the informant or she had herself committed suicide due to torture made by the informant because there was love affair between the deceased and the appellant and they wanted to get marry to each other but the informant was not ready for that and both were not permitted to meet with each other. It is further submitted that any how both used to talk with each other through mobile. It is further submitted that the Mobile No. 9315362217 from which threatening was given to the informant which belongs to one Sonelal Mahto of Dumariya



Village which was used by his son Ashik Kumar. It is further submitted that only to save the real culprit, the appellant has falsely been implicated in the present case. The appellant was arrested and sent to Juvenile Justice Board who has found his age as 16 years one month and eleven days on the alleged date of occurrence as such he has been declared juvenile by the Juvenile Justice Board on 29.05.2024. The appellant has clean antecedent as stated in paragraph no. 3 of the appeal. He is in custody since 22.05.2023.

7. Learned Spl. P.P. for the State has vehemently opposed the prayer for bail of the appellant. It has further been pointed out that the release of the appellant would defeat the ends of justice.

8. As per the social investigation report as well as the social background report, this Court finds that there is no adverse remark against the appellant and further the presumption of innocence of the child cannot be ruled out.

9. Further, a Division Bench of this Court in ***Lalu Kumar and Ors. Vs. State of Bihar [(2019) 4 PLJR 833]***, has held that seriousness and gravity of the offence alleged cannot be made a ground for rejecting bail under the Act of 2015.

10. Accordingly, the order dated 18.10.2024, passed



by learned Additional Sessions Judge-Ist-cum-Special Judge, Children Court, Begusarai in connection with Sahebpur Kamal P.S. Case No. 135 of 2023 and J.J.B. Case No. 78 of 2024, is set aside and the present criminal appeal is allowed.

11. Let the appellant who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his mother on execution of bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-Ist-cum-Special Judge, Children Court, Begusarai in connection with Sahebpur Kamal P.S. Case No. 135 of 2023, subject to following conditions:-

(i) Natural guardian/mother will furnish an undertaking that upon release on bail the appellant will not be permitted to go into contact or association with any known criminal or allowed to be exposed to any moral, physical, or psychological danger and further that the mother will ensure that the juvenile will not repeat the offence.

(ii) Natural guardian/mother will further furnish an undertaking to the effect that the



juvenile will pursue his study at the appropriate level which he would be encouraged to do besides other constructive activities and not be allowed to waste his time in unproductive and excessive recreational pursuits.

(iii) The appellant will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

12. Accordingly, the present criminal appeal stands allowed.

(Chandra Prakash Singh, J)

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