

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1062 of 2025

Arising Out of PS. Case No.-264 Year-2024 Thana- RAJPUR District- Buxar

Prem Chandra Pathak S/o Niramal Kumar Pathak, R/o vill - Jagmanpur, P.S.-
Dhansoin, Distt- Buxar Nirmal Kumar Pathak, He is the Guardianship
(Father) of the Appellant Prem Chandra Pathak, R/o vill - Jagmanpur, P.S.-
Dhansoin, Distt.- Buxar

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dr.Kamal Deo Sharma

For the Respondent/s : Mr. Anand Mohan Prasad Mehta

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 2 24-04-2025 This is an appeal filed in connection with Rajpur P.S.

Case No. 264 of 2024 which was initially registered under
Section 140(3) of the BNS. Subsequently, charge sheet has been
filed against the appellant and others under Sections 103, 238
and 61(2) of the BNS. Thus, there is a charge of committing
murder of the victim against the appellant. The learned Special
Judge, Children Court at Buxar rejected the prayer for bail of
the appellant in Adult Children Case No. 01 of 2024 vide order
dated 12th February 2025 on the ground that if the appellant is
released on bail, there is every possibility to bring the appellant
into association with the known criminal, namely, Sonu Kumar.
The said order is challenged in the instant appeal on the ground
that the appellant was booked in connection with this case only



on the basis of the statement made by the co-accused, nothing was recovered from his possession. No fact relevant for the adjudication of the case is discovered at the instance of any statement made by the appellant. Therefore, the appellant should be released on bail.

2. Learned APP, on the other hand, submits that the appellant was apprehended on the basis of mobile tower location when the investigating officer found that the mobile tower location of the principal accused, namely, Sonu Kumar and the appellant at the time of commission of offence suggested that they were present in the same place.

3. I have duly considered the submissions made on behalf of the parties. It is needless to say that by enacting Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, bail of a C.I.C.L. is a statutory right. Section 12 mandates that persons, who are under the age of 18 years, thereby falling within the definition of “child” under the Juvenile Justice (Care and Protection of Children) Act, 2015 and are alleged to have committed an offence punishable under the penal laws, are required to be released on bail. Section 12 operates as an imperative mandate and this mandate is evidenced by the use of the word “shall which signifies that bail



is to be granted as a Rule”.

4. In support of this observation, the Court refers to *Sandeep Ayodhya Prasad Rajak, through his mother Shimla Ayodhya Prasad Rajak Vrs. State of Maharashtra*, reported in *2022 SCC OnLine Bombay 1825*. In *Juvenile in Conflict with Law Vrs. State of Rajasthan and Another*, reported in *2024 SCC OnLine SC 2973*, the Hon’ble Supreme Court has emphasized on the pro-active role to be played by the Juvenile Justice Board to ensure that a child is entitled to be released immediately on bail after his produce before the Board.

5. Of course, proviso to Section 12 states that bail to a C.I.C.L. shall be refused, if the Court finds that the release is likely to bring that person into association with any known criminal. The word “known” is very important. It is for the prosecution to state at least the names of the criminals, who are known to the appellant. Secondly, there is nothing on record that if the appellant is released on bail, such release will expose the appellant to moral, physical and psychological danger or the order of bail would defeat the ends of justice.

6. For the reasons stated above, I am inclined to release the above named appellant on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties



of the like amount each to the satisfaction of the learned Special Judge, Children Court at Buxar in Adult Children Case No. 01 of 2024 with further conditions which are as follow:-

(i) One of the sureties/bailors must be one of the parents or a close relative of the appellant.

(ii) The father or close relative of the appellant shall file an affidavit before the learned Additional Sessions Judge, 1st, Jamui, in Children Case No. 22/2022, giving a specific undertaking that after the release of the appellant on bail, he will take proper care of the appellant and will not allow him to fall into bad company.

(iii) The appellant shall remain present before the Court and/or the police, as the case may be, as and when required.

(iv) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.

(v) The court below shall verify the criminal antecedent of the appellant and in case, at any stage, it is found that the appellant has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the appellant. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this



purpose or in the name of verification.

7. With the above order, the instant criminal appeal stands allowed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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