

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1179 of 2025

Arising Out of PS. Case No.-136 Year-2024 Thana- KHUTAUNA District- Madhubani

Md. Jamshed Son of Md. Manir as per FIR, but real age is 16 years 4 months 30 days, according to juvenile Justice Board, Son of Md. Manir, Resident of Village-Belanahri, P.S.-Khutauna, District-Madhubani under Guardianship of maternal uncle Sahadat Miya, male, aged about 44 years, Son of Gafur Miya, Resident of Village-Gidhwas, P.S.-Ladania, District - Madhubani.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Jitendra Kumar Bharti, Adv
For the Respondent/s : Mr.Zeyaul Hoda, APP

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 01-11-2025 Heard the learned counsel for the appellant and
learned APP for the State.

2. The present application has been filed against the order dated 21.02.2025 passed by the learned Additional Session Judge-I cum Special Judge, Children's Court, Madhubani in connection with Inquiry case no. 1728 of 2024 arising out of Khutauna P.S.Case No. 136 of 2024 registered under sections 318 (4), 64, 352, 351 (2),3 (5) of BNS by which the prayer for bail of the appellant has been rejected.

3. As per the prosecution case, the allegation against the appellant is committing rape on the pretext of solemnizing marriage

4. Learned counsel for the appellant has submitted that the appellant has been held to be juvenile and on the date of



occurrence he has been assessed to be less than eighteen years.

5. Learned counsel for the appellant further relies upon the provisions of the Section 3(i),(iv),(v) and (xiv) of the Juvenile Justice (Care and Protection of Children) Act, 2015. He also relies upon Section 12 of the Juvenile Justice (Care and protection of Children) Act 2015 and has submitted that bail is a rule and denial of bail to a juvenile is an exception.

6. He further submits that though the appellant is a child in conflict with law but he has remained in jail since 07.10.2024 and the court below has not considered the law with regard to the release of juvenile under the Juvenile Justice (Care and protection of Children) Act, 2015.

7. Learned counsel for the appellant further submits that family members of the appellant including the grand father of the appellant will take care of the appellant so that he may not do any further crime and he may not remain in the company of the criminals.

8. Considering the aforesaid facts, this application is allowed and order dated 21.02.2025 passed by the learned Additional Session Judge-I cum Special Judge, (Children's Court), Madhubani in connection with Inquiry case no. 1728 of 2024 arising out of Khutauna P.S.Case No. 136 of 2024 is



hereby set aside.

9. Let the appellant, above named, be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of the learned Additional Session Judge-I cum Special Judge, Children's Court, Madhubani in connection with Inquiry case no. 1728 of 2024 arising out of Khutauna P.S.Case No. 136 of 2024, subject to the following conditions:-

(i) that one of the bailors should be the grand father of the appellant.

(ii) that the grand father of the appellant shall file an affidavit before the concerned court below, giving specific undertaking that after 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 will co-operate in the trial in the Children Court. He will appear personally or through his lawyer. Any default in the same will result in the cancellation of the bail bonds of the appellant.

(Sandeep Kumar, J)

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