

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2359 of 2025

Arising Out of PS. Case No.-166 Year-2024 Thana- SAHAR District- Bhojpur

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Bholu Rai @ Shubhum Rai @ Shubhum Kumar S/O Sunil Rai R/O Village-
Perhap, P.S.- Sahar, District- Bhojpur, Ara

... .. Appellant/s

Versus

The State of Bihar Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Tiwari, Advocate
For the Respondent/s : Mr. Abhay Kumar Roy, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

- 308-08-2025This is an appeal under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015 filed by the CICL himself challenging an order passed by the learned Special Judge, Children’s Court, Bhojpur at Ara in Special Child Case No.02 of 2025 arising out of Sahar P.S. Case No.166 of 2024 on 09.05.2025.
2. It is needless to say that the CICL has been facing trial under Sections 61(2), 103(1), 109, 190, 191(2), 191(3) of the BNS and Section 27 of the Arms Act.
3. Prosecution case, in brief, is that one Chandra Devi lodged a written complaint before the SHO, Sahar Police Station in the district of Bhojpur at Ara, stating inter-alia, that on 09.09.2024 at about 08 a.m. the husband of the informant was going to Court by a motorcycle with his brother-in-law, namely,



Manoranjana Rai. Manoranjana Rai was driving the motorcycle while her husband was a pillion rider, informant was following them walking behind them motorcycle. As soon as, the motorcycle reached in front of the house of Tuntun Rai, one Priyanshu Rai started firing frequently with a fire arm with the intention to kill her husband and Manoranjana Rai. Meanwhile, one Nandu Rai, Chotak Rai, Lala Rai @ Murari Rai, Deepak Rai having country made fire arm in their hands came the spot and in discriminatory fired at them. As a result of firing, the husband of the informant was murdered. Subsequently, accused Pawan Rai, Suraj Rai, Puja Kumari, Kiran Devi, Kanti Devi, Tuntun Rai and Jitendra Rai in furtherance of criminal conspiracy joined the above-named accused persons to kill the husband of the informant. One Bholu Rai @ Shubham Rai alongwith Lala Rai and Murari Rai also open fire at the deceased. All of them conspired together to kill the husband of the informant.

4. On the basis of said FIR, Sahar P.S. Case No.166 of 2024 was registered. The case was finally transmitted to the Court of Sessions it was pleaded that the appellant was a juvenile on the date of commission of offence. Accordingly, his case was transmitted to the Juvenile Justice Board for



determination of age of the juvenile.

5. It was found that the appellant was aged about 17 years and seven months on the date of commission of alleged offence. Accordingly, the Board sent the case record to the learned Special Judge, Children's Court, Bhojpur at Ara for adjudication of the application for bail filed by the petitioner. The learned Special Judge, Children's Court, Bhojpur at Ara rejected the prayer for bail of the appellant on perusal of Social Investigation Report (SIR), assessment of his family background and lack of control and guidance of parents over the appellant. The learned Court below also considered the Social Background Report and found that he is influenced by his peers of same aged group.

6. The learned Advocate for the appellant has submitted a written argument in support of his claim. I have perused the written argument.

7. It is needless to say that an application for bail of a juvenile is required to be adjudicated upon in accordance with the provision contained in Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 12 of the said Act lays-down the law relating to bail of a juvenile with clear departure from the provisions contained in the Code of



Criminal Procedure or B.N.S., 2023. Notwithstanding anything contained in the Code of Criminal Procedure or any other laws enforced for the time being, it is provided that juveniles should be released on bail. The statute in relation to administration of the said Act states in Section 3 that the provisions of the Act shall be implemented on the principle of presumption of innocence (Section 3(i)), principle of best interest, (section (3) (iv)), principle of non-stigmatising semantics (section 3(viii)), principle of repatriation and restoration (section 3(xiii)) and principle of fresh start (section 3(xiv)) amongst others.

8. Proviso to Section 12 of the said Act speaks about three prohibitions where bail may be refused to a CICL. The prohibitions are:-

(i) the release is likely to bring that person into association with any known criminal,

(ii) expose the said person to moral, physical or psychological danger and

(iii) release would defeat the ends of justice.

9. It is needless to say that the grounds of prohibition must come before the Board or Children's Court as the case may be as an objection raised by the prosecution. On the other hand, this Court find on perusal of the impugned order that the Court



itself considered the S.I.R. and S.B.R. to find out the prohibition so that bail may not be granted to the appellant.

10. The Trial Court states that there was animosity between the families of the CICL and the informant and previously informant's son was also murdered. No material is forthcoming that in the murder of the son of the informant, the CICL was involved. The Trial Court also shows that one Lov Kumar, Vishnu Kumar, residents of the same village are friends of the CICL. No material is coming that the said Lov Kumar and Vishnu Kumar are known criminals of the locality. There is also no material to the effect that the CICL actually fired at the husband of the informant causing his death. Being a member of an unlawful assembly is not sufficient to refuse bail of the CICL.

11. Accordingly, the order passed by the learned Additional Sessions Judge-I-cum-Special Judge, Children's Court, Bhojpur at Ara on 09.05.2025 in Special Child Case No.02 of 2025 is set aside.

12. In view of the aforesaid facts and circumstances, the appellant/CICL, above-named, may be granted bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each, one of whom must be



a local surety, to the satisfaction of the learned Additional Sessions Judge- 1st Bhojpur at Ara in connection with Special Children Case No.02 of 2025 arising out of Sahar P.S. Case No.166 of 2024, subject to further following condition that:-

(I) One of the bailor must be the mother of appellant.

(II) further condition that if on bail he shall be under the care and protection of his mother and under the supervision of the Probation Officer, who will submit quarterly report about the antecedent of appellant before the Board and if any such report is found to be unsatisfactory, the Board is at liberty to cancel the order of bail without reference to this Court.

13. With the above order, the instant appeal is allowed.

(Bibek Chaudhuri, J)

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