

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2482 of 2025

Arising Out of PS. Case No.-163 Year-2022 Thana- ISMAILPUR District- Bhagalpur

XX, aged about 17 years (Male), Son of Khokha Kapri, resident of Village- Chhoti Parbatta, PS- Ismailpur, District -Bhagalpur, under the guardianship of his mother Reena Devi, wife of Khoka Kapri, village Choti Parbatta (Sahu Parbatta) P.S. - Ismailpur, District -Bhagalpur

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Vivekanand Singh, Advocate
For the Respondent : Mr. Mukeshwar Dayal, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 09-10-2025 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 26.04.2025, passed by learned



Additional Sessions Judge-I-cum-Special Judge, (Children Court), Bhagalpur, in Special Case (Children) No. 01 of 2025, arising out of Ismailpur P.S. Case No. 163 of 2022, registered for the offences punishable under Sections 363, 364, 365 read with Section 34 of the I.P.C., whereby the application filed by the appellant for grant of regular bail was rejected.

5. As per the prosecution case, the appellant and the other co-accused persons are alleged to have abducted and committed murder of the informant's husband. The informant has also alleged that prior to such incident, her son, Rahul Kumar, has also been shot dead at the instance of the associates of the appellant.

6. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case. It is further submitted that there is no eye witness to the alleged offence. There is no specific allegation against the appellant. It is submitted that the alleged occurrence took place on 10.12.2022 at 6.00 P.M. and the F.I.R. has been lodged on 12.12.2022 and there is delay of two days in lodging the F.I.R., and no explanation for such delay has been given by the prosecution. It is further submitted that during the course of investigation on 12.12.2022 at about 6.00 P.M., the dead body of



the deceased Bibhuti Kapri was recovered from the bank of Ganga River in Mahadeopur Mouza. It is further submitted that from perusal of the F.I.R., it appears that only suspicion has been raised against the appellant and the other co-accused persons that prior to the alleged occurrence, the son of the informant, namely, Rahul Kumar, was shot dead in the house of the informant for which Ismailpur P.S. Case No. 30 of 2020 was registered for the offences punishable under Sections 147, 148, 149, 307 and 302 of the I.P.C. and for withdrawal of that case, the appellant and the other co-accused persons used to give threat. It is further submitted that the other co-accused persons, namely, Khokha Kapri in Cr. Misc. No. 48032 of 2023 vide order dated 02.08.2023, Debo Mandal @ Deban Mandal in Cr. Misc. No. 53956 of 2023 vide order dated 26.09.2023, Ashok Mandal in Cr. Misc. No. 72940 of 2024 vide order dated 03.10.2024, Ritesh Kapri and Sukho Kumar Mandal in Cr. Misc. No. 25793 of 2024 vide order dated 27.06.2024 have already been granted bail by a Bench as well as by another Co-ordinate Benches of this Court, annexed as Annexures 2 to 5 to the present Memo of Appeal. The appellant has one criminal antecedent in which he is on bail as stated in paragraph no. 3 of the Memo of Appeal. He is in custody since 27.06.2024 in this



case.

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 26.04.2025, passed by learned Additional Sessions Judge-I-cum-Special Judge, (Children Court), Bhagalpur, in Special Case (Children) No. 01 of 2025, arising out of Ismailpur P.S. Case No. 163 of 2022, 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 uncle 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-I-cum-Special Judge, (Children Court), Bhagalpur, in connection with Special Case (Children) No. 01 of 2025, arising out of Ismailpur P.S. Case No. 163 of 2022, subject to following conditions:-

(i) Natural guardian/uncle 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 the uncle will ensure that the juvenile will not repeat the offence.

(ii) Natural guardian/uncle 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.

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(Chandra Prakash Singh, J)

