

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2728 of 2025

Arising Out of PS. Case No.-92 Year-2024 Thana- KALUAHI District- Madhubani

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Bittu Ray @ Bittu Kumar Ray S/O Sita Ram Ray R/o Vill.- Pursoliya, P.S -
Kaluahi, District - Madhubani, Under the Guardianship of his mother Namely
Jaleshwari Devi, W/O Sita Ram Ray, R/o Vill.- Pursoliya, P.S - Kaluahi,
District - Madhubani

... .. Appellant/s

Versus

1. The State of Bihar
2. Kuraisha Khatoon W/O Md. Shamshad R/o Vill.- Pursoliya, P.S - Kaluahi,
District - Madhubani

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ashok Kumar, Advocate
For the Respondent/s : Mr. Zeyaul Hoda, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 01-11-2025 Heard the parties.

2. The present application has been filed against the order dated 03.06.2025 passed by the learned Additional Sessions Judge-1-cum-Special Judge, Children Court, Madhubani passed in Juvenile Appeal No. 09 of 2025 arising out of the order dated 03.04.2025 passed E.N. No. 1726 of 2024 passed by learned Principal Magistrate, J.J.B., Madhubani in connection with Kaluhai P.S. Case No. 92 of 2024 registered under Sections 363, 376 and 376D of the Indian Penal Code and Sections 4/6 of the POCSO Act by which the prayer for bail of the appellant has been rejected.

3. As per the prosecution case, the appellant is an accused of having committed rape upon the victim.

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 02.10.2024 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 mother 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 03.06.2025 passed by the learned Additional Sessions Judge-1-cum-Special Judge, Children Court, Madhubani passed in Juvenile Appeal No. 09 of 2025 arising out of the order dated 03.04.2025 passed E.N. No. 1726



of 2024 passed by learned Principal Magistrate, J.J.B., Madhubani in connection with Kaluhai P.S. Case No. 92 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 J.J.B., Madhubani /concerned Court below in connection with Kaluhai P.S. Case No. 92 of 2024 subject to the following conditions:-

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

(ii) that the mother of the appellant shall file an affidavit before the concerned Court below, giving specific undertaking that after release of the appellant on bail, she 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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