

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3983 of 2024**

Arising Out of PS. Case No.-105 Year-2023 Thana- GARHI District- Jamui

XX, aged about 17 years, Gender-Male, S/o Late Ajit Sah @ Ajit Kumar under the Guardianship of his mother Rekha Devi, R/o Badhwan Talab, Jamui, P.S. - Jamui, Distt. - Jamui

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Jnanchandra Bhardwaj, Advocate
For the Respondent : Mrs. Anita Kumari Singh, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

8 05-02-2025 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 10.07.2024, passed by learned Additional Sessions Judge-I, Jamui, in Garhi (Jamui) P.S. Case No. 105 of 2023 dated 09.12.2023, Children Case No. 04 of 2024, registered for the offences punishable under Sections 302, 201, 120B read with Section 34 of the I.P.C., whereby the learned Additional Sessions Judge-I, Jamui, the application filed by the appellant for grant of regular bail has rejected.

5. As per the prosecution case, the appellant and 2-3 unknown miscreants are alleged to have killed the informant's brother by slitting his neck.

6. Learned counsel for the appellant submits that the appellant has falsely been implicated in the present case due to local people. It is further submitted that the information was received on 08.12.2023 as to when the F.I.R. was lodged on 09.12.2023 and the delay in lodging of the F.I.R. has not been explained by the prosecution. It is submitted that during investigation, only relatives of the informant was examined by the police and no independent witness was examined. Nothing incriminating article has been recovered from the possession of the appellant. All the witnesses are hearsay witnesses. It is further submitted that the appellant was arrested on 10.12.2023



and on the same day, police recorded his confessional statement but the Investigating Officer could not produce before the learned Magistrate for recording of his statement under Section 164 of the Cr.P.C. Hence, his confessional statement recorded before the police has got no evidentiary value in the eye of law. It is further submitted that the co-accused Ranjan Kumar has already been granted bail by a Bench of this Court vide Cr. Misc. No. 35070 of 2024 under order dated 16.05.2024. Vide order dated 06.12.2024, a report was called for from the Superintendent of Police, Jamui, regarding the number of criminal antecedents/history of the appellant. In pursuance thereof, a report vide Memo No. 06/Vidhi Sakha dated 03.01.2025 was received from the Superintendent of Police, Jamui, regarding the criminal antecedent of the appellant in which it has been mentioned that the appellant has three criminal antecedents including the present case. A supplementary affidavit has also been filed by the learned counsel for the appellant and in paragraph nos. 2 to 7 of the said supplementary affidavit, it has been stated that the appellant was made accused in six cases and all cases stood terminated by the learned Juvenile Justice Board, Jamui. The appellant is a juvenile (conflict-in-law) in remand home since 11.12.2023 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 10.07.2024, passed by learned Additional Sessions Judge-I, Jamui, in Garhi (Jamui) P.S. Case No. 105 of 2023, Children Case No. 04 of 2024, 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 mother 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,



Jamui, in connection with Garhi (Jamui) P.S. Case No. 105 of 2023, Children Case No. 04 of 2024 subject to the following conditions:-

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

(ii) Natural guardian/mother 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.

(Chandra Prakash Singh, J)

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