

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5174 of 2024

Arising Out of PS. Case No.-178 Year-2023 Thana- GHOGHARDIHA District- Madhubani

Sitesh Rai @ Sitesh Kumar Rai @ Child in Conflict with Law X Son of Lalan
Rai Resident of Village - Ararbari, P.S. - Tarabari, District - Araria

... .. Appellant/s

Versus

1. The State of Bihar
2. Om Prakash Sah Son of Gangai Sah Resident of Village - Bagraha Ward
No.11, P.S. - Ghoghardiha, District - Madhubani

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Baleshwar Kamat

For the Respondent/s : Mr.Anand Mohan Prasad Mehta

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

4 16-09-2025

Heard the parties.

2. The present application has been filed against the order dated 5.8.2024 passed by the learned Additional Sessions Judge, 1st-cum-Children Judge, Madhubani in E.N. No. 1382 of 2024 (arising out of Ghoghardiha P.S. Case No. 178/2023) registered under Section 363, 366(A), 376, 504, 506/34 of the Indian Penal Code and under Section 4 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 accused of kidnapping the minor victim and committing rape with her.

4. Learned counsel for the petitioner has submitted



that the petitioner 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 12.11.2023 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 petitioner including the father of the petitioner 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 5.8.2024 passed by the learned Additional Sessions Judge, 1st-cum-Children Judge, Madhubani in E.N. No. 1382 of 2024 (arising out of Ghoghardiha P.S. Case



No. 178/2023) 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 Sessions Judge-1st-cum-Children Judge, Madhubani/concerned Court below in connection with E.N. No. 1382 of 2024 arising out of Ghogardiha P.S. Case No. 178 of 2023 subject to the following conditions:-

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

(ii) that the 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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