

Kundan Sahani @ Kundan Sahni vs The State Of Bihar on 27 September, 2023

Author: Shailendra Singh

Bench: Shailendra Singh

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.457 of 2023

Arising Out of PS. Case No.-50 Year-2021 Thana- PUNAURA District-

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XXXXX, Under the Guardianship of his father namely Ashok Sahani ,
Resident of village - Madanpur, P.S. - Parsauni, District - Sitamarhi

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Abhijeet Gautam, Advocate

For the Respondent/s : Mr.Bal Mukund Prasad Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH

ORAL ORDER

3 27-09-2023

1. Heard learned counsel for the appellant and learned APP for the State.

2. The instant appeal has been filed under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act, 2015 against the order dated 27.10.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi, in connection with Punaura P.S. Case No. 50 of 2021 registered for the offences punishable under Section 364(A) and chargesheet was submitted under Sections 364(A), 302 and 201, 120(B) of the IPC, whereby the prayer for bail made by the appellant has been rejected.

3. The main submissions advanced by learned Patna High Court CR. APP (SJ) No.457 of 2023(3) dt.27-09-2023 counsel for the appellant are that the appellant has fair and clean antecedent, he has been declared juvenile and his age was 16 years 11 months and 19 days at the time of commission of the alleged occurrence and in respect of the appellant's involvement in the alleged crime, the prosecution is mainly relying upon confessional statements of accused persons as well as recovery of the dead body and incriminating articles but no recovery was made in following with the disclosure made by the appellant and no specific role of the appellant in the alleged crime came into light even

if the said confessional statements are believed. Further submissions are that the appellant has spent about 2 years and 6 months in observation home which is sufficient period he spent in the observation home and one child in conflict, who has also been declared juvenile, has been granted the privilege of bail by co-ordinate bench of this court vide order passed in Cr. Revision No 286 of 2022 and the social investigation report of the appellant does not go against his prayer.

4. Learned APP appearing for the State has opposed the prayer for bail of the appellant and submitted that the instant matter relates to heinous offence of kidnapping for ransom as well as murder of the kidnapped boy and appellant remained involved in the alleged crime and his prayer has been Patna High Court CR. APP (SJ) No.457 of 2023(3) dt.27-09-2023 rightly rejected by the trial court.

5. Heard both the sides and perused the FIR and social investigation report concerned to the appellant. Though, the instant matter relates to heinous offence of murder and kidnapping for ransom but the social investigation report goes to show that there are several major family members in the family of the appellant and any adverse observation with respect to his conduct has not been mentioned in the said report and the appellant has spent about 2 years and 6 months under protective custody period which is sufficient period he spent in the observation home and the appellant is in Intermediate class so keeping him in remand home continuously will hamper his educational career and one child in conflict carrying similar nature of allegation, who has also been declared juvenile, has been granted bail by a co-ordinate bench of this court and moreover, the appellant has fair and clean antecedent, in my opinion, all these circumstances are in favour of the appellant's prayer for bail. Accordingly, let the appellant named-above be released on bail on furnishing bail bond of Rs.10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum- Special Judge (Children's Court), Sitamarhi, in connection with Punaura P.S. Case No. 50 of 2021.

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6. In the result, the instant appeal stands allowed and the order impugned is hereby set aside.

(Shailendra Singh, J) Rajiv/-

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