

**IN THE COURT OF ADDL. DISTRICT & SESS. JUDGE-I cum SPECIAL JUDGE,
KAIMUR AT BHABHUA**

IA No. 01/2022 A.C. Trial - 07 / 2021

RAMGARH P. S. CASE NO. 16 / 2021

STATE Vs. CHANDRABHAN UPADHYAY

14.02.22 Present Sri Rajendra Pandey, Ld. counsel on behalf of the petitioner and learned Spl. P. P. for the State.

ORDER

The present is a successive bail petition filed on behalf of the accused namely, **Chandrabhan Upadhyay** who is in custody since 22.01.2021 in connection with Ramgarh P.S. Case No. 16 of 2021 filed U/ss. 363 & 364 of IPC. It is submitted that the previous regular bail application on behalf of this petitioner was rejected on dated 10.03.2021. Thereafter, no other bail application has ever been filed on behalf of the petitioner either in this court or in any superior court and that the petitioner has no criminal antecedents. Both the assertions have been affirmed by the Ld. Spl.P.P.

The prosecution story, in brief, is that on the alleged date and time, on a pretext of asking about an address, two unknown persons took the son of the informant Priyanshu Kumar aged about 13 years. When the son of the informant did not return, the informant inquired about it and got to know that the persons who came to ask for the address, took away his son on a motorcycle. The FIR in the case was registered under Section 363 & 364 of IPC against the unknown. After investigation, the charge-sheet got filed under Section 364(A) and Sec. 120B of IPC against the petitioner and two other co-accused as it was discovered during the investigation that the son of the petitioner was kidnapped for ransom in pursuance to a common conspiracy formulated by the three accused.

The Ld. Counsel on behalf of the petitioner has prayed for the grant of bail on the ground that the allegations levelled against the petitioner are false and fabricated. There is no direct or specific allegation against the petitioner. That the petitioner was not even present at the alleged place of occurrence and the case against him has been filed on the basis of suspicion with a view to harass and humiliate him. That no identification parade was conducted and no any material was recovered during the investigation to implicate the petitioner. The petitioner has been declared to be a juvenile on the date of commission of offence and no ground for the denial of bail as mentioned in proviso to Section 12 of the Juvenile

Contd.. Justice (C&P) Act. 2015 is applicable to the facts and circumstances of the present 14.02.22 case.

The learned Spl P. P. opposed the bail petition on the ground of nature and gravity of the offence alleged. It is submitted that a regular bail petition on behalf of petitioner has already been rejected by a coordinate court, on merits of the case. After rejection of the previous bail petition, no new material has been brought on record in support of the petitioner apart from the fact that the petitioner has been declared to be a juvenile on the date of commission of offence. In the preliminary assessment done by JJB, the petitioner is found to have developed the ability to commit the alleged offence and to understand the circumstances and the consequences of the alleged act and the case of the petitioner has been transferred to this court u/s 18(3) of JJ Act. The petitioner was on the verge of majority on the date of commission of offence and is now a major. His bail petition has already been rejected by the coordinate court after considering the merits of the case. The bail petition on behalf of the co-accused carrying similar allegation has also been rejected. It is further submitted that the petitioner is alleged to have committed the offence in the company of his own extended family members and if released on bail, there is a great probability that he will get back in the company of criminals which would neither be in the interest of the petitioner nor would it be in the interest of justice. Moreover, he does not stay within jurisdiction of this court and once granted bail it would be difficult to secure his presence in the case. Hence, the bail application of the petitioner deserves to be rejected.

Heard the counsels and perused the record. Considering the entire material available on the record, submissions advanced by the counsels in the totality of the facts and circumstances of the case, I am of opinion that the continued institutionalization of the petitioner would be in the interest of justice as well as in the interest of the petitioner, I do not find it proper to enlarge the petitioner Chandrabhan Upadhyay on bail. Hence, the present bail petition filed on his behalf is hereby **rejected**.

(Dictated)

Sd./-

Spl. Judge

Kaimur at Bhabua

