

(2019) 07 RAJ CK 0072

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 842 Of 2019 & Criminal Revision
Petition No. 843 Of 2019

Bhavesh @ Bhavu

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 22-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 382

Juvenile Justice (Care And Protection Of Children) Act, 2015 — Section 12

Citation : (2019) 07 RAJ CK 0072

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : Ranjeet Singh, Mahipal Bishnoi

Final Decision : Allowed

Judgement

Heard learned counsel for the petitioner (juvenile- through his natural guardian grand-father Jhala S/o Shri Teja) as well as learned Public Prosecutor appearing on behalf of the respondent-State.

The allegation against the petitioner is of offence under Sections 382/34 IPC. The bail application filed by the petitioner under Section 12 of the

Juvenile Justice (Care and Protection of Children). Act, 2015 before the Principal Magistrate, Juvenile Justice Board, Udaipur was rejected vide order

dated 25.06.2019. Being aggrieved by the said order, an appeal was filed by the petitioner before the learned Special Judge (POCSO Act Cases)

No.1, Jodhpur and the same has been dismissed by learned Special Judge vide order dated 01.07.2019.

Being aggrieved of the orders dated 25.06.2019 and 01.07.2019 passed by the Courts below, the petitioner has preferred this revision petition before

this Court.

Learned counsel for the petitioner submits that there is no evidence to show that if the juvenile-petitioner is released on bail, then his release is likely to

bring him into association with any known criminal, or expose them to moral, physical or psychological danger, or that his release would defeat the

ends of justice. It is argued that learned Courts below have not appreciated the fact that the petitioner is juvenile and entitled to get benefit of

provisions of the Act of 2015. Section 12 of the Act of 2015 clearly provides that if the accused is juvenile, then he should be released on bail, but

learned Courts below fully ignored the provisions of the Act of 2015. The petitioner is in custody since long time and no further detention of the

petitioner is required for any purpose. Learned counsel for the petitioner further submitted that the gravity of the offence committed cannot be a

ground to decline bail to a juvenile.

On the other hand, learned Public Prosecutor defended the impugned order passed by the Juvenile Justice Board in declining the bail to the petitioner

as also the judgment passed by the Appellate Court upholding the order passed by the Juvenile Justice Board.

I have carefully considered the submissions made by the learned counsel for the parties and also perused the provisions of the Act of 2015.

The language of Section 12 of the Act of 2015 conveys the intention of the Legislature to grant bail to the juvenile, irrespective of nature or gravity of

the offence, alleged to have been committed by him and bail can be denied only in the case where there appears reasonable grounds for believing that

the release is likely to bring him into association with any known criminal, or expose him to moral, physical or psychological danger, or that his release

would defeat ends of justice.

In this context, I have also scanned through and perused the orders passed by the courts below.

Having carefully examined provisions of the Juvenile Justice Act vis-a-vis the orders passed by the courts below, I do not find that any of the

exceptional circumstances, to decline bail to a juvenile, as indicated in Section 12 of the Act of 2015, is made out.

In view of the aforesaid discussion, this revision petition is allowed and the order dated 25.06.2019 passed by the Principal Magistrate, Juvenile Justice

Board, Udaipur as well as order dated 01.07.2019 passed by learned Special Judge, (POCSO Act Cases) No.1, Udaipur declining bail to the petitioner is hereby set aside.

Accordingly, it is ordered that the juvenile accused-petitioner Bhavesh @ Bhavu S/o Ratan Lal Gameti shall be released on bail in FIR 87/2019, P.S.

Rishabdeo, District Udaipur upon furnishing personal bond by his natural guardian grand-father Jhala S/o Shri Teja in the sum of Rs.80,000/- each

along with a surety in the like amount to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Udaipur with the stipulation that on all

subsequent dates of hearing, he shall appear before the said court or any other court, during pendency of the investigation/trial in the case and that his

guardian shall keep proper look after of the delinquent child and secure him away from the company of known criminals.