
(2004) 09 JH CK 0048

In the Jharkhand High Court

Case No : Criminal Revision No. 197 of 2004

Ghasi Ram Munda @ Alinder

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 30-09-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 397

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 12

Citation : (2005) 1 Crimes 244 : (2004) 4 JCR 704

Hon'ble Judges : Vishnudeo Narayan, J

Bench : Single Bench

Advocate : B.M. Tripathy, for the Appellant; APP, for the Respondent

Final Decision : Allowed

Judgement

Vishnudeo Narain, J.—Heard the learned counsel for the petitioner.

2. This revision at the instance of the petitioner stands directed against the impugned judgment dated 8.1.2004 passed in Criminal Appeal No. 164 of 2003 by Shri Prakash Chandra Agrawal, Additional Judicial Commissioner, Fast Track Court No. 3, Ranchi whereby and whereunder the order dated 19.11.2003 passed in G.R. Case No. 3195 of 2002 refusing the prayer for bail of the petitioner was affirmed.

3. It appears that the said petitioner is being prosecuted for the offence Under Sections 147, 148, 323, 384, 435 and 427 of the Indian Penal Code and u/s 27 of the Arms Act besides u/s 17 of the C.L.A. Act in Silli Police Station Case No. 43 of 2002 corresponding to G.R. No. 3195 of 2002 along with other co-accused persons and in the said occurrence the Jeep belonging, to the construction company was burnt when the demand of the levy amount was not fulfilled as demanded by the banned terrorists organization and this petitioner is alleged to be the member of the said terrorist or- ganization having participation in the occurrence in question. It further appears that vide order dated 22.8.2003, the

case of this petitioner was referred to the Court of Additional Chief Judicial Magistrate, Ranchi by the Court of Shri B.V. Gautam, 1st Class, Judicial Magistrate, Ranchi for enquiring as to whether the petitioner as a juvenile delinquent or not. The Court of Additional Chief Judicial Magistrate on enquiry held that the said petitioner is a juvenile below the age of 17 years on the day of the occurrence. The said juvenile court finding the allegation serious, refused to enlarge the petitioner on bail and his petition for bail was rejected.

4. The petitioner preferred Criminal Appeal No. 164 of 2003 before the Court of Judicial commissioner, Ranchi and the said appeal was heard by Additional Judicial Commissioner, Fast Track Court No. 3 and the appeal preferred by the petitioner was also dismissed.

5. It has been submitted by the learned counsel for the petitioner that it is evident from paragraph 6 of the impugned judgment that the Juvenile Court has recorded a finding that the petitioner is a juvenile delinquent below the age of 17 years, but inspite of the said finding his prayer for bail was rejected by the trial Court as well as in the appeal" by the learned appellate Court below in flagrant violation of law and also against the mandates as contained in Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the said Act). It has further been contended that other co-accused persons in the said case have already been enlarged on bail and the case of this juvenile delinquent is on better footing to that of their case and a manifest illegality has been committed by the learned Courts below in not releasing the petitioner on bail. It has been contended that Section 12 of the said Act mandates that a juvenile when arrested or detained or appeared or -brought before the Juvenile Court such juvenile shall be released on bail without or with surety but he shall be not so released if there appear reasonable grounds for believing that his 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 the ends of justice and in this case, there is no criminal antecedent of the petitioner and he has been falsely implicated in this case and he is the son of a responsible Central Government servant and his father undertakes to take all proper care for the petitioner so that he may not come in association with any known criminal and he further under- takes that he will take such necessary steps for the wellbeing of the petitioner which will not expose him to moral, physical or psychological danger. Lastly, it has been contended that in the facts and circumstances of this case and in view of the undertaking of his father, the release of the petitioner is not at all likely to defeat the ends of justice.

6. It is an admitted fact that this petitioner is a juvenile delinquent as per the finding of the Juvenile Court and his age is below 17years on the date of the occurrence. It further appears that other co-accused persons in the said case stands enlarged on bail. The father of the petitioner is a responsible Central Government servant and as submitted, he undertakes to see the welfare of the petitioner after his release so that the petitioner may not come into association

with any known criminal or for to expose him to moral, physical or psychological danger after his release. Section 12 of the said Act mandates that a juvenile shall be released forthwith on bail.

7. Considering the facts and circumstances of this case, petitioner Ghasi Ram Munda @ Alinder is ordered to 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 Additional Chief Judicial Magistrate, Ranchi in connection with Silli Police Station Case No. 43 of 2002 corresponding to G.R. Case No. 3195 of 2002, when an affidavit is filed by the father of the petitioner giving undertaking therein that he will properly take care of the petitioner for his wellbeing so that the petitioner may not be any association with any known criminal or expose him to moral, physical or psychological danger.

8. However, one of the bailers shall be the father of this petitioner and the other bailers shall be a Government servant locally posted.

This revision is accordingly allowed.