

(2011) 03 JH CK 0162
In the Jharkhand High Court
Case No : Criminal Rev. No. 26 of 2011

Kartik Vishwakarma

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 31-03-2011

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 12, 53
Penal Code, 1860 (IPC) — Section 304B, 306, 34, 498A

Citation : (2012) 3 Crimes 314

Hon'ble Judges : Dilip kumar sinha, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.K. Sinha, J.—Petitioner-jvenile has preferred this criminal revision u/s 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 against the order dated 10.11.2010, passed by the learned Additional Sessions Judge, F.T.C.-II, Giridih in Criminal Appeal No. 73/10, by which the prayer for bail of the Petitioner u/s 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 rejected by the Juvenile Justice Board was affirmed and the appeal was dismissed.

2. Petitioner is admittedly the husband of the deceased, who was facing charge under Sections 306/304B/498A/34 of the Indian Penal Code pending inquiry before the Juvenile Justice Board, Giridih.

3. Persecution story in short was that the Petitioner's wife Ruby Kumari had committed suicide after consuming poison within two years of her marriage and there was allegation by the informant-father of the deceased that the accused persons had been extending torture for payment of Rs. 50,000/- as dowry and the accused persons had forcibly administered poison as a result of which she died. In the post-mortem examination, suspected case of poisoning was found by the Doctor, who held autopsy.

4. The learned Counsel assailed the order recorded by the learned Additional Sessions Judge and submitted that the appeal preferred by the Petitioner was rejected only on the ground that there was ample material for allegation of demand of dowry and therefore, the involvement of the Petitioner could not be ruled out and thereby, affirmed the order of the Juvenile Justice Board, Giridih by which the prayer of the Petitioner-jvenile was rejected.

5. I find from perusal of the orders impugned that the Juvenile Justice Board as well as the learned Additional Sessions Judge rejected the prayer of the Petitioner only on merit without considering the benevolent legislation as contained in Section 12 of the Act wherein the bail of a juvenile has been made rule and rejection as exception. There are certain proviso of Section 12 of the Act which speaks that in certain circumstances the prayer for bail of a juvenile may be refused, but from perusal of the entire materials on the record, I find that the case of the Petitioner does not come within the proviso of Section 12 of the Act so as to deny the statutory right of the Petitioner, which has been enshrined under the benevolent legislation.

6. In the facts and circumstances of the case, Petitioner Kartik Vishwakarma is directed to be released on executing bail bond of Rs. 15000/- (Fifteen Thousand) with two sureties of the like amount each to the satisfaction of Juvenile Justice Board, Giridih with the conditions that parents of the Petitioner would be his bailors who would take care of him and produce the Petitioner preferably in the 1st week of each month till conclusion of inquiry or on the date suggested by the Board on each month.

7. It would be relevant to mention that the report of the Juvenile Justice Board is on the record which indicates that only five witnesses could be produced in course of inquiry but the Juvenile Justice Board failed to disclose how many witnesses were named in the charge-sheet.

8. In the circumstances, the Juvenile Justice Board is directed to expedite the inquiry so as to conclude it at an early date.

9. Accordingly, this criminal revision is allowed.