
(2008) 07 JH CK 0106
In the Jharkhand High Court

Lachhu Munda

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 09-07-2008

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 53
Penal Code, 1860 (IPC) — Section 379, 394

Citation : (2008) 3 JCR 601

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Final Decision : Allowed

Judgement

D.G.R. Patnaik, J.—The petitioner has filed this criminal revision application u/s 53 of the Juvenile Justice (Care and Protection of Child) Act against the order dated 6.3.2008 passed by the Judicial Commissioner, Ranchi in Criminal Appeal No. 241 of 2007 whereby the appeal preferred by the petitioner against the order dated 10.8.2007 passed by the Juvenile Justice Board in Khunti PS Case No. 10 of 2007 was dismissed and his prayer for bail was rejected.

2. The petitioner is accused for offence u/s 394 of the Indian Penal Code and since he was assessed to be a juvenile on the date of the offence, he was forwarded to the Juvenile Justice Board and was remanded to the remand Home pending enquiry by the Juvenile Justice Board.

3. Prayer for bail of the petitioner was rejected by the Juvenile Justice Board against which the petitioner preferred appeal before the Sessions Court which was also rejected.

4. Learned Counsel submits that the prayer for bail has been rejected on extraneous considerations beyond the provisions of law and is based on mere conjecture and surmises and guess work. Learned Counsel explains that for the purpose of considering as to whether the release of the petitioner from custody would bring him in association with other known criminals or would cast adverse

impact on the petitioner's mind, the Juvenile Justice Board ought to have obtained a report from the Probation Officer but such report was not obtained and the prayer for bail of the petitioner was refused both by the Board and by the lower appellate Court mainly on the ground that the offence alleged against the petitioner is serious.

5. Learned Counsel for the State while opposing the prayer for ball and supporting the impugned order of the learned Courts below would submit that the petitioner was earlier accused for offence u/s 379, IPC and though subsequently acquitted in the case, but after his release he came in association with other known criminals and has committed the present offence, this time u/s 394, IPC.

6. From perusal of the impugned order of the Juvenile Justice Board as also that of the appellate Court below, it appears that the prayer for ball of the petitioner has been rejected mainly on the ground that the allegation against the petitioner is that he has committed "ghastly offence in association with other criminals."

7. Reference to the evidence of witnesses recorded by the investigating officer of the case has also been noted in which the witness had purportedly claimed that they had seen the petitioner fleeing away after committing robbery. Learned lower appellate Court has recorded further that "now it is admitted fact that the appellant has gone in association of criminal elements and his parents have lost control over him. Under such circumstances, release of the appellant on bail may expose him to mental, physical and psychological danger and his release would certainly defeat the ends of justice."

8. It appears that though the trial of the petitioner is pending for the past one year, but the trial has not concluded as yet. It is informed at the Bar that during the period of enquiry, no report from the Probation Officer in respect of the petitioner's antecedents and his social and economic condition or family status of the petitioner was obtained. Yet, in absence of a report from the Probation Officer, it is not under stood as to how the learned Court below had arrived at the conclusion that "It is admitted fact that the petitioner's parents have lost control over him." It is apparent that the inference drawn by the trial Court and conclusions recorded are without any firm and reasonable basis. It appears from the submissions made by the petitioner's counsel that the father of the petitioner is willing to take custody of the petitioner and to keep care and protection of the boy under his control.

9. In the facts and circumstances of the case, I find merit in this application. Accordingly, this application is allowed. The impugned orders of the appellate Court as also of the Juvenile Justice Board are set aside.

The petitioner Lachhu Munda is directed to be enlarged on bail on his furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the Juvenile Justice Board. Ranchi, in connection with Khunti PS Case No. 10 of 2007 (GR No. 26 of 2007), on the

condition that the father of the petitioner shall stand as one of the bailors of the petitioner and shall give a separate undertaking that he will take care and custody of the petitioner and provide him all care under his control and shall produce him before the Juvenile Justice Board on each of the dates fixed till conclusion of the trial.