
(2009) 09 PAT CK 0004
In the Patna High Court
Case No : Criminal Rev. No. 1491 of 2009

Mikki Sharma @ Mani Bhushan Sharma

APPELLANT

Vs

The State of Bihar

RESPONDENT

Date of Decision : 11-09-2009

Acts Referred:

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

Citation : (2009) 4 PLJR 589

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mandhata Singh, J.—Heard learned counsel for the petitioner and the State. The submission of learned counsel for the petitioner is that petitioner has been declared juvenile even then his prayer for bail has been refused by the court below for the allegation of his committing rape upon a girl.

2. According to learned counsel, once an inquiry is held and any one is assessed as juvenile that is final till its remaining in force which can be set aside by the appellate or revisional court only. But in the case some mistake appears to be committed by the learned Sessions Judge that he has refused the prayer for bail assessing the age on appearance while Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2000 speaks as follows:-

"12. Bail of Juvenile--(1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear 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 the ends

of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order."

3. So, after going through Section 12 of the Act it is apparent that after appearance if apparently the accused appears juvenile, he shall be allowed bail but that cannot be refused assessing him major that also in the case when age is assessed by an inquiry. Once an inquiry is held, the option of apparently assessing any one juvenile comes to an end.

4. The act of rape is an individual act often committed due to being immature, so it cannot be said that the release of a juvenile in conflict with law would defeat the ends of justice. Father of juvenile is there to undertake to keep juvenile under his observation and further to produce him whenever is required by the Juvenile Justice Board.

5. However, this revision application is allowed and the judgment and order dated 17.8.2009 passed by Sri Akhilesh Kumar Jain, Sessions Judge, Jehanabad in Cr. Appeal No. 47/2009 confirming the order dated 17.7.2009 passed by Juvenile Justice Board, Jehanabad in Tr. No. 63(J)/ 2009 arising out of Paras Bigha P.S. Case No. 39/2005 is set aside.

6. Let the abovenamed petitioner 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 Juvenile Justice Board, Jehanabad in Tr. No. 63(J)/2009 arising out of Paras Bigha P.S. Case No. 39/2005. It is made clear that one of the bailer shall be petitioner's father who shall undertake to keep the petitioner under his observation and shall produce him whenever is ordered by the Juvenile Justice Board.