
(2008) 09 OHC CK 0115
In the Orissa High Court
Case No : Criminal Revision No. 818 of 2008

Naresh Naik

APPELLANT

Vs

State of Orissa

RESPONDENT

Date of Decision : 15-09-2008

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 — Section 52, 53
Penal Code, 1860 (IPC) — Section 302, 34

Citation : (2008) CLT 1262 (Suppl CrI)

Hon'ble Judges : Pradip Mohanty, J

Bench : Single Bench

Advocate : Savitri Ratho, for the Appellant; S.C. Mishra, A.S.C., for the Respondent

Judgement

Pradip Mohanty, J.—Heard Miss. Ratho, Learned Counsel for the Petitioner, and Mr. Mishra, Learned Addl. Standing Counsel.

This criminal revision is filed u/s 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 against the judgment and Order Dated 30.05.2008 passed by the Learned Sessions Judge, Dhenkanal in Juvenile CrI. Appeal No. 13 of 2008 confirming the Order Dated 28.03.2008 of the C.J.M.-cumP.M.J.C., Angul rejecting the prayer of the Petitioner for bail.

2. The present Petitioner is involved in an offence u/s 302 Indian Penal Code in Chhendipada P.S. Case No. 223 of 2007 corresponding to CT. Case No. 2376 of 2007 pending before the C.J.M.-cum-P.M.J.C., Angul. On completion of investigation, charge-sheet has been submitted against him and Ors. on 08.04.2008 u/s 302/34 Indian Penal Code. He filed a petition for bail before the Learned C.J.M.-cumP.M.J.C., Angul. The prayer for bail was rejected by C.J.M.-cum-P.M.J.C., Angul on 28.03.2008. Against that order, the Petitioner preferred an appeal u/s 52 of the Juvenile Justice (Care and Protection of Children) Act, 2000 registered as Juvenile CrI. Appeal No. 13 of 2008. But the Learned Sessions Judge dismissed the same with the finding that all the three brothers including

the present Petitioner, who is a minor, had committed murder of their father, and that the mother of the Petitioner, who is alive and is the natural guardian of the Petitioner, has not come up with any application for taking the responsibility of the Petitioner.

3. Miss. Ratho, Learned Counsel for the Petitioner submits that the Petitioner is a juvenile and staying in the juvenile home. Her mother, who is the immediate guardian of the Petitioner, is interested to take custody of the juvenile and look after him. No ingredients of Section 302 Indian Penal Code has been fulfilled and there is no specific allegation against the Petitioner. Rather, if the Petitioner is allowed to remain in the juvenile home, there is chance of mixing with known criminals, which may cause psychological danger to him. Thus, his detention in the home would ultimately affect his future. Therefore, she prays that in the interest of justice, the Petitioner may be released on bail. Learned Counsel further submits that release of the juvenile on bail is a rule. In support of her contentions, she relied on the decisions in *Abraham Kristian and Anr. v. State of Orissa*, 1989 (1) OLR 89; *Sandeep v. State of Chhatisgarh*, 2007 (1) Crimes 705; *Deepak Kumar v. State of U.P.*, 2003 (2) Crimes 53 and *Amit v. State of Haryana*, 2007 (3) Crimes 752 (P&H).

4. Mr. Mishra, Learned Addl. Standing Counsel vehemently opposes the prayer and submits that there is direct allegation against the Petitioner. The Petitioner along with his brothers committed the heinous crime of patricide. Therefore, he should not be released on bail.

5. Perused the records, the decisions cited by the Learned Counsel for Petitioner and the report of the Superintendent, Probation Hostel, Angul produced by the State Counsel. The Superintendent in his report has stated that the age of the juvenile is 16 years, he never left home without his mother's permission, he was reading in Class-X prior to his arrest, both the teachers and classmates have no adverse views on him, he is very affectionate to his mother and he is a first offender. The ratio decided in *Abraham Kristian and Amit (supra)* is that release of juvenile on bail is the rule and the exception is, if there appears reasonable grounds for believing that the release is likely to bring him in association with any known criminals or expose him to moral danger or that his release would defeat the ends of justice. There is no material before this Court that if the Petitioner is released on bail, he will be mixed with the criminals or exposed to moral danger or his release, will defeat the ends of justice. On the other hand, the Superintendent, Probation Hostel in his report has categorically stated that the Petitioner has a fixed place of abode, which is congenial for development of his character. His mother, elder brother, grandfather, grandmother (the parent of his mother reside in the same village) have control over the juvenile. His associates are school and college going boys. Counselling can change his attitude and make him a sociable. Therefore, by applying the ratio decided in the above noted cases and keeping in view the report of the Superintendent, Probation Hostel, this Court directs the trial to admit the Petitioner/juvenile to bail on such

terms and conditions as it would deem just and proper. Besides, the mother of the Petitioner will stand as a surety and furnish an undertaking to the effect that she shall look after the juvenile and shall not allow him to mix with criminals. If the Petitioner, commits any criminal act while on bail, the O.I.C., Chhendipada P.S. shall immediately re-arrest him and produce before the C.J.M.-cum-P.M.J.C., Angul who shall immediately send him to the Probation Hostel.

6. The CRLREV is accordingly disposed of.

Urgent certified copy of the order be granted as per rules.

Crl. Rev. disposed of.