

(2019) 09 RAJ CK 0185

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 675 Of 2019

Naveen Kandara

APPELLANT

Vs

State, Through Pp And Ors

RESPONDENT

Date of Decision : 23-09-2019

Acts Referred:

Indian Penal Code, 1860 — Section 302, 323, 341

Juvenile Justice (Care And Protection Of Children) Act, 2015 — Section 12

Citation : (2019) 09 RAJ CK 0185

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : Deepak Menaria, Mahipal Bishnoi

Final Decision : Dismissed

Judgement

Heard learned counsel for the petitioner (juvenile- through his natural guardian father) as well as learned Public Prosecutor appearing on behalf of the respondent-State.

The allegation against the petitioner is of offence under Sections 341, 323, 302 IPC. The bail application filed by the petitioner under Section 12 of the Act of 2015 before Principal Magistrate, Juvenile Justice Board, Udaipur was rejected vide order dated 05.04.2019. Being aggrieved by the said order, an appeal was filed by the petitioner before the learned Special Judge, Protection of Children From Sexual Offences, Udaipur No.1 and the same has been dismissed by learned Appellate Court vide impugned order dated 12.04.2019.

Being aggrieved of the orders dated 05.04.2019 and 12.04.2019 passed by the Courts below, the petitioner has preferred this revision petition before this Court.

Learned counsel for the petitioner vehemently submitted that petitioner is below 18 years of age and he has been falsely involved in the case without any material evidence. Counsel further submits that initially in the FIR specific role of inflicting injuries to the deceased has been assigned to accused Mohanlal and other

persons, likewise the statement of Head Constable Nanalal has been recorded in which the name of the petitioner was not mentioned. It is further argued that learned Courts below have not appreciated the fact that the petitioner is juvenile and entitled to get benefit of provisions of the Act of 2015. The petitioner is in custody since long time and no further detention of the petitioner is required for any purpose. Learned counsel for the petitioner further submitted that the gravity of the offence committed cannot be a ground to decline bail to a juvenile.

On the other hand, learned Public Prosecutor defended the impugned order passed by the Juvenile Justice Board in declining the bail to the petitioner as also the judgment passed by the Appellate Court upholding the order passed by the Juvenile Justice Board and submits that the petitioner is the main accused in this case, who inflicted head injury to the deceased. Hence, looking to the gravity of the offence, the bail should not be granted to the petitioner.

I have carefully considered the submissions made by the learned counsel for the parties and also perused the provisions of the Act of 2015.

In the statements of Mohanlal, Harish and Sampatlal, specific allegation of inflicting injury to the deceased has been levelled against the petitioner and further according to the postmortem report, there are grievous injuries on the head of the deceased and also on other parts of the body. According to the statements of the witnesses as well as postmortem report of the deceased, it appears that the accused-petitioner is the main accused in this case.

While referring to Section 12 of the Act of 2015, counsel for the petitioner has urged that releasing a juvenile on bail is a rule and his detention is an exception. True it is that under the provisions of Cr.P.C. in the matter of consideration of bail plea of an individual, seriousness of delinquency is a significant factor for nixing the bail and that aspect cannot be looked into when offender is a juvenile but then there are certain other relevant factors which are not to be eschewed by the Court. The law envisages that release of a juvenile is not desirable if it is belief of the Court that such release may bring the person in association with any known criminal or expose the said person to moral, physical or psychological danger, or that his release would defeat the ends of justice.

Upon appreciation of the arguments advanced by the learned counsel for petitioner, I do not foresee that releasing the petitioner on bail would bring him in association with any known criminal or expose him to moral, physical or psychological danger, however, in the backdrop of his criminal delinquencies, I feel persuaded that such release would defeat the ends of justice as the allegations against juvenile are for offences of mental depravity, i.e., under Sections 341, 323, 302 IPC. Therefore, at this stage, releasing him on bail would not be in the interest of justice. Although the petitioner is a juvenile, but he has murdered a person, and both the Courts below have considered this aspect of the matter objectively with pragmatic approach. Thus, I am unable to find any illegality or impropriety in the orders passed by the Courts below so as to invoke

revisional jurisdiction in the matter.

In view thereof, the revision petition fails and same is hereby dismissed.