
(2020) 01 RAJ CK 0369

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 2642 Of 2019

Noor Salam @ Banti

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 10-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 376D

Protection Of Children from Sexual Offences Act, 2012 — Section 3, 4

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

Citation : (2020) 01 RAJ CK 0369

Hon'ble Judges : Goverdhan Bardhar, J

Bench : Single Bench

Advocate : P.S. Rajawat, Pankaj Agarwal

Final Decision : Allowed

Judgement

Heard learned counsel for the petitioner (juvenile- through his natural guardian and mother Smt. Bismila) as well as learned Public Prosecutor

appearing on behalf of the respondent- State.

The allegation against the petitioner is of offence under Section 376-D IPC and Section 3/ 4 of the POCSO Act. The bail application filed by the

petitioner under Section 12 of the Act of 2015 before Principal Magistrate, Juvenile Justice Board, Ajmer was rejected vide order dated 1.7.2019.

Being aggrieved by the said order, an appeal was filed by the petitioner before the learned Special Judge, Protection of Children from Sexual Offences

Act, 2012 and Child Right Protection Commission Act, 2005, No.-01, Ajmer (Rajasthan) and the same has been dismissed by learned Appellate Court

vide impugned order dated 27.11.2019.

Being aggrieved of the orders dated 1.7.2019 and 27.11.2019 passed by the

Courts below, the petitioner has preferred this revision petition before this Court.

Learned counsel for the petitioner vehemently submitted that benefit of bail has been granted to co-accused Ramesh vide order dated 15.11.2019 and

the case the present petitioner stands on similar footing. Petitioner is below 18 years of age and he has been falsely involved in the case without any

material evidence. Further there is no evidence to show that if the juvenile-petitioner is released on bail, then his 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. It is

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. Section 12 of the Act of 2015 clearly provides that if the accused is juvenile, then he should be released on bail, but learned Courts below fully

ignored the 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.

Learned Courts below in quite cursory manner have declined bail to the applicant-petitioner.

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.

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

that for the protection of juvenile, this special Act has been enacted. Section 12 of the Act of 2015 indicates that if a juvenile is arrested or detained or

appears or is brought before a Board, such juvenile shall be released on bail, with or without surety, or placed under the supervision of a Probation

Officer or under the care of any fit institution.

The language of Section 12 of the Act of 2015 conveys the intention of the Legislature to grant bail to the juvenile, irrespective of nature or gravity of

the offence, alleged to have been committed by him and bail can be denied only in the case where there appears 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 ends of justice.

In this context, I have also scanned through and perused the orders passed by the courts below.

Having carefully examined provisions of the Juvenile Justice Act vis-a-vis the orders passed by the courts below, I do not find that any of the

exceptional circumstances, to decline bail to a juvenile, as indicated in Section 12 of the Act of 2015, is made out.

In view of the aforesaid discussion, this revision petition is allowed and the order dated 1.7.2019 passed by the Principal Magistrate, Juvenile Justice

Board, Ajmer as well as order dated 27.11.2019 passed by learned Special Judge, Protection of Children from Sexual Offences Act, 2012 and Child

Right Protection Commission Act, 2005, No.01, Ajmer (Rajasthan), declining bail to the petitioner are hereby set aside.

It is ordered that the juvenile accused-petitioner Noor Salam @ Banti S/o Late Shahabudin shall be released on bail, upon furnishing a personal bond

by his natural guardian (mother), in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) along with two sureties of Rs.25,000/- (Rupees Twenty Five

Thousand only) each to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Ajmer; with the stipulation that on all subsequent dates

of hearing, he shall appear before the said court or any other court, during pendency of the investigation/trial in the case and that his guardian shall

keep proper look after of the delinquent child and secure him away from the company of known criminals.