
(2019) 05 RAJ CK 0145

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 435 Of 2019

Pankaj Chawriya @ Tej Singh

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 16-05-2019

Acts Referred:

Indian Penal Code, 1860 — Section 149, 302, 307, 323, 452

Arms Act, 1959 — Section 4, 25

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

Citation : (2019) 05 RAJ CK 0145

Hon'ble Judges : Manoj Kumar Garg, J

Bench : Single Bench

Advocate : Deepak Menaria, Farzand Ali, S.K. Mathur

Final Decision : Allowed

Judgement

Heard learned counsel for the petitioner (juvenile- through his natural guardian Father-Rajesh Chawriya S/o Saylal Chawriya) as well as learned Public Prosecutor appearing on behalf of the respondent-State.

The allegation against the petitioner is of offence under Sections 302, 307, 323, 452, 149 IPC and Section 4/25 of the Arms Act. The bail application filed by the petitioner under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 before Juvenile Justice Board, Udaipur was rejected vide order dated 01.04.2019. Being aggrieved by the said order, an appeal was filed by the petitioner before the learned Special Judge (POCSO Act Cases) No.1, Udaipur and the same has been dismissed by learned appellate Court vide impugned order dated 05.04.2019.

Being aggrieved of the orders dated 01.04.2019 and 05.04.2019 passed by the Courts below, the petitioner has preferred this revision petition before this Court.

Learned counsel for the petitioner submits that specific allegation is against accused-Satya Prakash and Shekhar. No overt act has been assigned to the

present petitioner. Moreover, 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 them 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.

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.

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 01.04.2019 passed by the Principal Magistrate, Juvenile Justice Board, Udaipur as well as order dated 05.04.2019 passed by learned Special Judge, (POCSO Act Cases) No.1, Udaipur, declining bail to the petitioner is hereby set aside.

Accordingly, it is ordered that the juvenile accused-petitioner Pankaj Chawriya @ Tej Singh shall be released on bail, upon furnishing personal bond by his natural guardian (Father Rajesh Chawariya S/o Saylal Chawriya), in the sum of Rs.80,000/- along with a surety in the like amount to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Udaipur 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.