
(2020) 01 RAJ CK 0372

In the Rajasthan High Court

Case No : Criminal Revision Petition No. 2219 Of 2019

Viram Chand @ Bhawani Shankar

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 10-01-2020

Acts Referred:

Indian Penal Code, 1860 — Section 323, 341, 354, 376

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 0372

Hon'ble Judges : Goverdhan Bardhar, J

Bench : Single Bench

Advocate : Pushpendra Pandey, Vinod Kuamr Sharma, Pankaj Agarwal

Final Decision : Allowed

Judgement

Heard learned counsel for the petitioner (juvenile - through his natural guardian and father Pappu Lal) as well as learned Public Prosecutor appearing

on behalf of the respondent- State.

The allegation against the petitioner is of offence under Section 341, 323, 354, 376 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, Baran was rejected vide order dated

10.7.2019. 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 Commission of Child Rights Act, 2005, No.01, Baran (Rajasthan) and the same has been dismissed by learned

Appellate Court vide impugned order dated 9.8.2019.

Being aggrieved of the orders dated 10.7.2019 and 9.8.2019 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. 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 10.7.2019 passed by the Principal Magistrate, Juvenile Justice

Board, Baran as well as order dated 9.8.2019 passed by learned Special Judge, Protection of Children from Sexual Offences Act, 2012 and

Commission for Child Rights Act, 2005, No.01, Baran (Rajasthan), declining bail to the petitioner are hereby set aside.

It is ordered that the juvenile accused-petitioner Viram Chand @ Bhawani Shankar S/o Pappu Lal shall be released on bail, upon furnishing a personal

bond by his natural guardian (father), 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, Baran ; 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.