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Bhagwan Vs. State

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Court : Rajasthan Jodhpur

Decided On : Nov-12-2014

Appellant : Bhagwan

Respondent : State

Judgement :

1 S.B.Criminal Revision Petition No.1154/2014 Bhagwan versus State of Rajasthan.

12.11.2014 Hon'ble Mr.Justice Sandeep Mehta Mr.Ramesh Purohit, for the petitioner.

Mr.LR Upadhyay, PP, for the respondent State..Heard.

The present revision petition has been filed by the petitioner through his natural guardian - mother Nosar under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 challenging the order dated 20.10.2014 passed by the learned Sessions Judge, Bhilwara whereby he rejected the appeal filed by the petitioner challenging the order dated 10.10.2014 passed by the learned Juvenile Justice Board, Bhilwara rejecting the prayer of the petitioner for being released to the guardianship/custody of his mother Nosar.

The petitioner has been charge-sheeted for offences under Sections 363, 366A, 376(D) and 120B IPC and Section 3/4 of POCSO Act.

Assailing the orders impugned, learned counsel for the petitioner submits that the prosecutrix and the accused are both of the same age group.

They were both intimate and eloped with each other as a result of their affaiRs.No documentary evidence was collected during investigation to prove the age of the girl.

She was found to be between 16 2 to 18 years of age upon medical examination.

She herself boarded the motorcycle being driven by the petitioner and went with him to Bhilwara.

From Bhilwara, both accompanied with Radheyshyam went to Maharashtra and worked together as labourers in the cotton fields for about 5 days.

She alleged in her statement recorded under Section 164 Cr.P.C.that once during this period, the accused committed rape with her.

He submits that it is a clear cut case of consensual relations and thus, the petitioner deserves to be released from custody.

He further submits that petitioner is in custody since 6.4.2014 and the trial is likely to take a long time.

He thus, prays that the revision petition be allowed and the petitioner be released to the guardianship of his mother during the pendency of the trial/enquiry.

Per contra, learned public prosecutor has vehemently opposed the prayer made by the petitioner.

Heard and considered the arguments advanced at the bar.

Perused the impugned order and the documents available on record.

The fact regarding the petitioner and the prosecutrix having intimate relations from before can be deducted from the material collected by the Investigating Officer during investigation.

However, the consent of the prosecutrix as being minor is not relevant.

However, the fact remains that the petitioner too was a minor at the time 3 of commission of offence.

The Probation Officer's report is not adveRs.to the petitioner.

Trial of the case is likely to take a long time.

Keeping in view the above facts and considering that the petitioner, a juvenile, is in custody since 6.4.2014, this Court feels that there are valid and justifiable grounds for directing the release of juvenile to the guardianship of his mother Nosar.

Accordingly, the revision petition succeeds.

The order dated 20.10.2014 passed by the learned Sessions Judge, Bhilwara and the order dated 10.10.2014 passed by the learned Juvenile Justice Board, Bhilwara are set aside and the Juvenile Justice Board, Bhilwara is directed to release the petitioner on bail into the guardianship of his natural guardian mother Nosar on the guardian executing a personal bond for a sum of Rs.50,000/- along with two sound and solvent sureties in the sum of Rs.25,000/- each to the satisfaction of the Juvenile Justice Board, Bhilwara on the usual terms and conditions.

[Sandeep Mehta].,J.

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