

Boby @ Vinod Vs. State of M.P.

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Court : Madhya Pradesh

Decided On : Mar-12-2015

Judge : S.K. Palo

Appeal No. : Criminal Revision No. 22 of 2015

Appellant : Boby @ Vinod

Respondent : State of M.P.

Judgement :

Heard.

This petition has been preferred under Section 53 of the Juvenile Justice (Care of Protection of Children) Act-2000 (for brevity The Act of 2000) against the impugned order dated 14.11.2014 passed by Session Judge, Gwalior in Criminal Appeal No. 412/2014 whereby rejection order of bail application filed u/S 12 of the Act of 2000 dated 28.10.2014 passed by Juvenile Justice Board, Gwalior has been confirmed.

The facts giving rise to this revision petition in brief are that on 04.10.2014 complainant Jogendra Jatav lodged a report that his son Hanuman@Sunil aged about 19 years was found dead in his courtyard. There was stab injuries on his body. The complainant's wife Savitri told him that at 11:00 PM her son Hanuman, Rahul, Suraj and petitioner Boby@Vinod were drinking alcohol and they had a fight regarding key of motorcycle. Police arrested the petitioner Juvenile in conflict

with law. On his memorandum u/s 27 of the Evidence Act. A pant and a shirt with blood stain were seized. Crime No. 376/14 was registered against the petitioner. On filing the application by the mother of the Juvenile in conflict with law before the Juvenile Justice Board u/S 12 of the Act of 2000, the same was rejected on 08.10.2014. This order was challenged by filing Criminal Appeal No. 412/14 before the Session Judge, Gwalior.

By the impugned order dated 14.11.2014 the appeal was dismissed. Therefore, the present revision has been filed by the Juvenile in conflict with law stating that the appellate Court has committed error in rejecting the prayer of the appellant.

Hence, it is prayed to set aside the impugned order as well as order dated 28.10.2014 passed by the Juvenile Justice Board.

On behalf of the petitioner it is submitted that the petitioner is a young boy of 17 years. He has no criminal antecedents. His father is no more. His mother is looking after him. If he is kept in custody, he will come with association of other criminals and which would result in frustrating the ends of justice. Therefore, he be given the benefit of bail. Learned counsel also placed reliance in a case disposed of by this High Court and reported in LAWS(MPH) 07-11-59=MP Weekly Note 2008 (Part-I)94.

Learned Public Prosecutor appearing for the State opposes the submissions and contended that the allegation against the petitioner is very clear and it is a serious offence. If the petitioner is released, it is likely to expose him to moral or psychological danger.

I have gone through the record and heard the parties. In section 12 of the Act of 2000, it is made clear that the juvenile in conflict with law shall be released on bail with or without surety and place him under Probation Officer or under the Court or any fit institution or fit person. But he will not be so released, if 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 the ends of justice.

These words of section 12 of the Act of 2000 confess the intention of legislature to grant bail to the Juvenile irrespective of nature or gravity of offence alleged to have been committed by the Juvenile.

Where there appears reasonable grounds for believing that the release of the Juvenile in conflict with law is likely to bring him into association with any known criminal or exposing him to moral, physical or psychological danger or that his release shall defeat the ends of justice, then only he can be detained in the shelter home.

On going through the citations placed before me by the learned counsel for the petitioner, it is clear that if there is no allegation that release of delinquent Juvenile on bail, shall bring into association with any known criminal or expose him to moral, physical or psychological danger or that his release shall defeat the ends of justice, he deserves to be released on bail. At the same time merits or nature of the offence has no relevance while considering the application for bail of the delinquent Juvenile.

On going through the impugned order it is revealed that the appellate Court on the basis of the Juvenile Justice Board's order held that if, the Juvenile in conflict with law is released on bail it would defeat the ends of justice and he will come into contact with other criminals and will indulge in committing crime. But the learned appellate Court in the impugned order to arrive at such conclusion no reason has been assigned. There is no report of the Probation Officer to reveal the conduct of the Juvenile conflict with law. The petitioner has no criminal background and the gravity of offence is not a consideration for releasing the Juvenile conflict with law on bail.

As per the above discussions I am of the opinion that both the Court below erred in rejecting the petitioner's bail application. There is no possibility that, if petitioner is released on bail, his release shall bring him into association with any known criminal or expose him to moral, physical or psychological danger or his release shall defeat the ends of justice. Impugned order passed by the appellate Court and the orders passed by the Juvenile Board are not sustainable in law and both the Courts below committed jurisdictional error and illegality in passing the orders.

Consequently, this revision is allowed and impugned order dated 14.11.2014 passed by the appellate Court and order dated 28.10.2014 passed by the Juvenile Justice Board in crime No. 376/14 are hereby set aside and it is directed that the petitioner Bobby @ Vinod be released on bail by executing a personal bond of his natural guardian, mother-Smt. Arti Dhanuk in the sum of Rs. 30,000/- (Rupees Thirty Thousand Only) with two solvent sureties in the like amount to the satisfaction of Juvenile Justice Board, Gwalior.

The petitioner-Bobby@Vinod is directed to make his presence before Juvenile Justice Board, Gwalior on 23.06.2015 and thereafter on all other subsequent dates as may be fixed by that Court in this regard.

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