

Bechan Vs. State of U.P.

Bechan Vs. State of U.P.

SooperKanoon Citation : sooperkanoon.com/474151

Court : Allahabad

Decided On : Jun-13-1990

Reported in : 1990CriLJ2524

Judge : K.K. Birla, J.

Acts : [Juvenile Justice Act, 1986](#) - Sections 2, 18 and 18(1)

Appeal No. : Criminal Misc. Bail Appln. No. 6647 of 1990

Appellant : Bechan

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : H.N. Singh, Adv.

Disposition : Application dismissed

Judgement :

ORDER

K.K. Birla, J.

1.The petitioner is accused of committing rape of the girl of about 9 or 10 years. The contention on behalf of the petitioner is that the accused was less than 16 years of age regarding which he had filed the extract of the Kutumb register before

the lower court. In the order of the Additional Sessions Judge, Mirzapur there is a mention that the Chief Medical Officer, Mirzapur had reported the age of the applicant as 18 years. It is contended on behalf of the applicant that one can take judicial notice that the margin of error in age ascertained by radiological examination is two years on either side. Reliance is placed for this proposition on the case of *Jaya Mala v. Home Secretary, Govt. of Jammu and Kashmir*, reported in AIR 1982 SC 1297: (1982 Cri LJ 1777). It is further contended that under Section 18 of the [Juvenile Justice Act, 1986](#), hereinafter referred to as the 'Act', if any person accused of bailable or non-bailable offence and apparently a juvenile is arrested, he shall be released on bail. It is contended that on being given the margin of error in the age of two years as reported by the Chief Medical Officer, Mirzapur, the petitioner becomes entitled to bail under Section 18 of the Act. Under Section 2(h) of the Act juvenile means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years. The medical evidence gives the age of the accused as 18 years. The principles laid down in the case of *Jaya Mala (supra)* will be of no help to the petitioner so as to give him any benefit under Section 18 of the Act. Under Section 18(1) of the Act a person shall be entitled to bail only when such arrested person is apparently juvenile. According to the Chambers Twentieth Century Dictionary, Edition 1983, the word 'apparent' means obvious, conspicuous. Therefore in order to get the benefit of Section 18(1) of the Act the petitioner should have been obviously or conspicuously a juvenile, that is, under 16 years of age. As pointed above in the medical evidence he is about 18 years old, therefore he cannot be said to be apparently a juvenile and therefore Section 18 is of no avail to the petitioner in my opinion. Copy of Kutumb register or the report of the Chief Medical Officer has also not been produced in the Court.

2. Considering the nature of the offence, I am of the view that it is not a fit case for grant of bail. The observations made above are simply for the purposes of this application. The application is, accordingly, rejected.