

**Vikky Alias Vikram Singh Vs. State of U.P. and ors.**

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**Court :** Allahabad

**Decided On :** Feb-19-2003

**Reported in :** 2003CriLJ3457

**Judge :** K.N. Sinha, J.

**Acts :** Juvenile Justice (Care and Protection of Children) Act, 2000 - Sections 12 and 12(1)

**Appeal No. :** Crl. R. No. 371 of 2003

**Appellant :** Vikky Alias Vikram Singh

**Respondent :** State of U.P. and ors.

**Advocate for Def. :** A.G.A.

**Advocate for Pet/Ap. :** Suvarna Singh and ;Upendra Singh, Adv.

**Disposition :** Petition allowed

**Judgement :**

ORDER

**K.N. Sinha, J.**

The present revision has been filed against the judgment and order dated 27-1-2003 passed by Sessions Judge, Kanpur Nagar, in Criminal Appeal No. 1 of 2003.

2. The brief facts giving rise to this revision are that the revisionist. Vicky alias Vikram Singh was detained in case crime No. 910/2002 under Section 304 IPC Police Station Chakeri, Kanpur Nagar. The revisionist moved an application before the Chief Metropolitan Magistrate, Kanpur Nagar, who declared him to be juvenile by order dated 3-1-2003 but refused the bail on the ground that the offence is of heinous nature and is exclusively triable by the Court of Session. An appeal against the said order was preferred but the Sessions Judge Kanpur Nagar, dismissed the appeal.

3. The factum of revisionist being juvenile had not been disturbed by the appellate Court but his appeal has been dismissed without applying mind or caring for the law. Section 12 of the Juvenile Justice (Care and Protection of Children) Act 2000, herein referred to Act is very clear on this point. The relevant portion of Section 12 runs as follows :--

#### 12. Bail of Juvenile--

(1) When any person accused of a bailable or non-bailable offence and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being In force, be released on bail with or without surety but he shall not be so released if there appear 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.

(2) and (3).....

4. According to Sub-section (1) of Section 12 any person, being juvenile, shall be released on bail with or without surety. However, for refusal of the bail there are only three grounds-firstly if the release is likely to bring him into the association with any known criminal. Secondly, exposes him to moral, physical or psychological danger and thirdly if his release would defeat the ends of justice. This Court has been repeatedly directing that if the release is refused on these grounds the Court should record findings as to whether any such ground exists or

not. It is not that the mere quoting of few lines from this Act, the bail should be refused.

5. The impugned order does not show any such ground either in the order of the Chief Metropolitan Magistrate or in the order of the Magistrate. The Magistrate in his order dated 3-1-2003 has refused the bail firstly on the ground that it is exclusively triable by the Court of Session and the offence being of heinous nature, which is no ground for refusing bail under/Section 12 of the Act, as referred to above the Appellate Court also almost summarily dismissed the appeal without properly appreciating the law on this point and even without discussing the law which he has already cited in paragraph 3 of the judgment.

6. It has been observed by the Appellate Court that 'YADI KISHOR ATICHARI KO IS AWASTHA MAIN JAMANAT PAR CHHODA JATA HAI TO ISKA ATYANTA PRATIKOOL PRABHAV KISHOR ATICHARI PAR PADEGA'.

7. This is no ground for refusal of the bail nor there is any thing to show how the juvenile shall be adversely affected.

8. It is the Magistrate and the appellate Court both who have ignored the provisions of Section 12 of the Act and the various pronouncement of the superior Court on the subject. The revision is therefore, allowed.

9. The revisionist Vicky alias Vikram Singh shall be released on bail on his guardian's furnishing a Personal bond and two sureties each in the like amount to the satisfaction of Chief Metropolitan Magistrate Kanpur Nagar.

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