

Sahabuddin Alias Shabboo Vs. State of U.P.

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Court : Allahabad

Decided On : Aug-09-2002

Reported in : 2002CriLJ4579

Judge : S.K. Agarwal, J.

Acts : Juvenile Justice Act

Appeal No. : Criminal Revn. No. 159 of 2002

Appellant : Sahabuddin Alias Shabboo

Respondent : State of U.P.

Advocate for Def. : A.G.A.

Advocate for Pet/Ap. : Anurag Pathak and ;Rajiv Gupta, Advs.

Disposition : Petition allowed

Judgement :

ORDER

S.K. Agarwal, J.

1. A Supplementary affidavit has been filed by learned counsel for the applicant today and a copy where of was served upon learned A.G.A. on 7-3-2002. It be taken on record. No counter-affidavit has been filed by learned A.G.A. till date.

2. The contention in this case is that though the applicant was declared juvenile by the Juvenile Court under the Juvenile Justice Act, yet bail was refused to him on inadequate grounds. This applicant was declared juvenile by the order of the Principal Magistrate, Ghaziabad, dated 1-11 -2001. The main ground for rejecting the benefit of being declared a juvenile and consequent release on bail was denied to the applicant on the ground that the entire episode involving the applicant including his confession and the discovery of the dead body at his pointing out will endanger the prosecution case and there is possibility of his tampering the evidence.

3. This applicant Was already declared juvenile by the order dated 1-11-2001. Nearly 10 months are going to elapse. This case rests on circumstantial evidence, Except a bald assertion by learned A.G.A. there was no material brought on record to establish any criminal antecedents of the applicant. At least this is not apparent from the order of the juvenile Court. In the circumstances, the order refusing, to release the applicant on bail, in my opinion, does not stand scrutiny by this Court. As the law requires, bail to any juvenile is to be refused if there appear reasonable grounds to believe that the release is likely to bring him into association with known or unknown criminals or expose him to mental, physical or psychological danger or that his release will defeat the ends of justice. A perusal of the present order does not indicate any of these three ingredients in the case of this applicant. Harshness of the crime may be a ground for refusing bail to any accused but it cannot form a ground for the accused who has been found a juvenile. In the case of such person two courses are open for the Court either to grant him bail and hand him over to the safe custody of his parents or any other responsible person willing to take charge of him or send him to a juvenile or reformatory home. None of the two courses was adhered to by the juvenile Court. Had that been done, probably question of bail would not have arisen. In the circumstances since the parents of this applicant are alive, in my opinion, it shall meet the ends of justice if the Court seeks bond from his father, for good conduct of the applicant during his release on bail. It shall be futile to say that constant incarceration of a juvenile is a greater threat to him than his constructive release. There is every likelihood of his coming into contact of known criminals than his being released on bail on the father furnishing bond for his better upkeep and for maintaining good behaviour

towards the society.

4. In these circumstances, this revision is allowed and the applicant who was refused bail in case Crime No. 333 of 2001 by the learned A.C.J.M. I/Principal Magistrate, Ghaziabad, by the order dated 14-12-2001, and upheld by the learned Sessions Judge, Ghaziabad, in Criminal Appeal No. 33 of 2001 vide order dated 16-1-2002, be enlarged on bail only after his father furnishes a bond and an undertaking on his behalf to the satisfaction of the Chief Judicial Magistrate, Ghaziabad, for his good upkeep and for the maintenance of good behaviour towards the society. If the applicant has by this time attained majority he must also furnish a similar bond.

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