

Anil Kumar Vs. State of U.P.

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Court : Allahabad

Decided On : Aug-28-2006

Reported in : 2007CriLJ200

Judge : Shiv Shanker, J.

Appellant : Anil Kumar

Respondent : State of U.P.

Disposition : Petition allowed

Judgement :

ORDER

Shiv Shanker, J.

1. This criminal revision has been preferred against Judgment and order dated 24-6-2006 passed in Criminal Appeal No. 49 of 2006, Anil Kumar v. State of U.P. in case crime No. 59 of 2006, under Sections 392, 411 and 120B, I. P. C. whereby the criminal appeal was dismissed the order passed by Juvenile Justice Board was affirmed.

2. Brief facts, arising out of this revision, are that Head Constable Rajveer Singh lodged F. I, R. against two unknown miscreants on 23-3-2006 at about 12.15 p.m. under Section 392, I. P. C. stating that Rs. 61.000/- were snatched from him by

two unknown miscreants. Three miscreants were apprehended by the police along with looted motorcycle upon which he was pillion rider upon motor cycle. After his arrest, he was sent to judicial custody.

3. He was declared juvenile by board. His bail application was refused by the board as well as appellate Court.

4. Hence, this revision is filed.

5. Heard learned Counsel appearing for the revisionist and learned A. G. A. and perused the record.

6. It is contended on behalf of the revisionist that he was in protected home at the time of alleged occurrence of robbery. Therefore, he could not commit offence of robbery during the period of judicial custody. He has been falsely Implicated in this case by showing false recovery of Rs. 61,000/- as looted property. Board has no sufficient material on record to reject the bail application. Similarly, appellate Court below has also committed manifest error in rejecting the ball application.

7. Learned A. G. A. has also submitted that the Courts below have not committed Illegality in passing the impugned judgment and order.

8. It has been observed in *Pratap Singh v. State of Jharkhand and Anr.* : 2005 CriLJ3091 that:

the whole object of the said Act is to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles - The Acts being benevolent legislations, an interpretation must be given which would advance the cause of the legislation i.e. to give benefit to the juveniles.

9. According to the 1st part of Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2000 reveals that bail shall be allowed by the Board. Second part of Section 12 of the Act reveals that the bail may be refused on the following grounds:

(1) If there appear reasonable grounds available believing that the release is likely to bring him into associations with any known criminal.

(2) Or may expose to moral, physical, psychological danger.

(3) Or that his release would defeat the ends of Justice.

10. Therefore, the bail application of the juvenile may be refused if the sufficient ground is available regarding any one of the exceptions.

11. It has been observed in *Sanjay Chaurasia v. State of U.P. and Anr.* 2006 (55) SCC 480 : 2006 (4) ALJ 353 that:

10. In case of the refusal of the bail, some reasonable grounds for believing above-mentioned exceptions must be brought before the Courts concerned by the prosecution but in the present case, no such ground for believing any of the above-mentioned exceptions has been brought by the prosecution before the Juvenile Justice Board and Appellate Court. The Appellate Court dismissed the appeal only on the presumption that due to commission of this offence, the father and other relatives of other kidnapped boy had developed enmity with the revisionist, that is why in case of his release, the physical and mental life of the revisionist will be in danger and his release will defeat the ends of Justice but substantial to this presumption no material has been brought before the Appellate Court and the same has not been discussed and only on the basis of the presumption, Juvenile Justice Board has refused the Bail of the revisionist which is in the present case is unjustified and against the spirit of the Act.

12. In view of the welfare of the revisionist with a hope, he may recover himself, he is entitled for bail.

13. There is another pronouncement on the same principle of this Court *Ankit Upadhyaya v. State of U. P. and Anr.* 2006 (55) All CC 759.

14. Therefore, there was no sufficient ground to refuse the bail application by board as well as appellate Court. Above pronouncements are fully applicable in this revision as same has been passed by both the Courts below merely on the basis of presumption and guess work without any substance. Therefore, both Courts below have committed illegality or incorrectness in passing the impugned judgment and order.

15. Thus, this revision is hereby allowed and Impugned orders passed by Courts below are set aside.

16. Let the revisionist Anil Kumar be released on bail on his furnishing a personal bond of his natural guardian and two sure-ties each of the like amount to the satisfaction of Court concerned on the conditions that he,

(1) shall not tamper with the prosecution evidence, and

(2) shall appear before the trial Court on each and every date fixed by the Board concerned.

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