

NavIn Panwar @ Neetu Vs. State

NavIn Panwar @ Neetu Vs. State

SooperKanoon Citation : sooperkanoon.com/695236

Court : Delhi

Decided On : Feb-14-1994

Reported in : 54(1994)DLT120

Judge : V.B. Bansal, J.

Acts : [Juvenile Justice Act, 1986](#) - Sections 18; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

Appeal No. : Criminal Miscellaneous (Main) Appeal No. 2898 of 1993

Appellant : NavIn Panwar @ Neetu

Respondent : State

Advocate for Pet/Ap. : K.K. Sud,; K. Vohra,; Rakesh Sherawat,;

Judgement :

V.B. Bansal, J.

(1) Navin Panwar alias Neetu has moved this petition for being released on bail for the offence punishable under Section 302 Indian Penal Code in Fir No.450/93, recorded at Police Station R.K.Puram, New Delhi. It is a case in respect of an incident dated 1.9.1993 in which , one Manish Gaur alias Montee sustained injuries resulting in his death. According to the prosecution story, the petitioner had inflicted 7-8 knife injuries to the deceased.

(2) Learned Counsel for the petitioner has submitted that admittedly, the petitioner was a child, less than 16 years, at the time of the alleged incident and keeping in view the provisions contained in Section 18 of the Juvenile Justice Act, 1986 (hereinafter referred to as 'the Act', the petitioner ought to have been released on bail. He has further submitted that the petitioner is not a previous convict and he has parents to look after and take care of him. He has also submitted that the Juvenile Court as also the learned Additional Sessions Judge have erred in declining the grant of bail to the petitioner.

(3) Learned Counsel for the respondent has, on the other hand, submitted that in spite of the fact that the petitioner was less than 16 years at the time of this incident, he has inflicted 7-8 knife injuries to Manish Gaur @ Montee, an innocent boy, resulting in his death. She has also submitted that the release of the petitioner would defeat the ends of justice since it would amount to giving encouragement to a person committing such a heinous offence. A prayer has, therefore, been made that the application may be dismissed.

(4) I have given my thoughtful consideration to these submissions and have also gone through the statements as also the order of the Juvenile Court and that of learned Additional Sessions Judge, it would, at this stage, be appropriate, to refer to Sub-section (i) of Section 18 of the Act, which reads as under:-

'18. Bail and custody of Juveniles.- (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 Juvenile Court, 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 danger or that his release would defeat the ends of justice.'

(5) A bare reading of the aforesaid provisions makes it abundantly clear that ordinarily, a juvenile has to be released on bail irrespective of the nature of the offence alleged to have been committed by him unless it is shown that there appears reasonable ground for believing that his release is likely to bring him

under the influence of any criminal or expose him to moral danger or that his release would defeat the ends of justice. There can possibly be no dispute that in this incident, as in any such like incident, a precious life has been lost and as per the allegations of the prosecution, it was at the hands of the petitioner. The short question for consideration is as to whether there is sufficient material available to indicate that the petitioner should not be allowed bail in spite of he being a child less than 16years at the time of commission of this offence.

(6) In case Arjun v. The State : 24(1983)DLT65 bail was allowed for the offence of murder to a juvenile since there was no material to show that the case was covered by the exceptions contained in Sub-section (1) of Section 18. It has also been mentioned in the said judgment that there was nothing to suggest that the accused was a previous convict. I had an occasion to deal with this matter in case Ram Inderv. State 1993 (1) C.C.C. 327, wherein. Ram Inder, accused of an offence punishable under Section 302 Indian Penal Code was allowed bail, keeping in view the fact that the investigation carried out till that time indicated that he was a child less than 16years of age and there was no other material so as to hold that he was not entitled to be released on bail. Following this judgment, Hon'ble Mr. Justice Satpal of this Court allowed bail to Mohammed Elias in case Mohd. Elias v. State 1994 (1) C. C. C.10.

(7) Learned Counsel for the respondent has submitted that the petitioner was involved in a case under Section 411 Indian Penal Code and that the release of the petitioner on bail would defeat the ends of justice as it would amount to encouragement to a person taking law in his own hands and committing a heinous offence like murder. There can possibly be no dispute that if there is material to indicate that the release of the petitioner would bring him into the association with a known criminal or his release would defeat the ends of justice, the bail can be declined. In the instant case, there has not been any material so as to indicate that the petitioner had made efforts to temper with the evidence or otherwise on what basis, there could be an apprehension that he would fall into the association with known criminals. It would be convenient, at this stage, to refer to the case Daya v. State of M.P. 1993 (2) Crimes 201, wherein it has been held that mere apprehension of creating terror or of tempering with the evidence, is not sufficient

to refuse bail. Learned Counsel for the respondent has referred to the case Kalyan v. State of Rajasthan and submitted that it is a fit case where the petitioner ought not be granted bail. A perusal of this judgment shows that it was based on facts different from the facts of the present case. It was a case of rape and the petitioner after committing offence, left the victim profusely bleeding, who became unconscious and there was a dispute with regard to the age of the petitioner also. In the instant case, the petitioner was admittedly less than 16 years of age at the time of incident.

(8) The case Guddu v. State of U.P. , referred to by the learned Counsel for the respondent in my view, cannot be of any help to the respondent. It was a case in respect of the petitioner below 16 years involved in a case of pick pocketing. Bail was declined by the Magistrate as also the Sessions Judge. Repetition of crime could be ground for refusing the bail, but the petitioner was allowed bail since no reason had been given by the Courts below while refusing bail.

(9) In the instant case, submission of the learned Counsel for the petitioner has been that it is unfortunate that a young life has been lost in this incident, but the petitioner being a juvenile, less than 16 years of age at the time of commission of the offence and there being nothing to indicate as to how it would defeat the ends of justice, it is a fit case for releasing the petitioner on bail.

(10) I have given my thoughtful consideration to all the aforesaid facts and have also gone through the statements recorded during the investigation. Considering the totality of circumstances I find it to be a fit case for the grant of bail.

(11) As a result, I order for the release of the petitioner, subject to his furnishing a personal bond in the sum of Rs. 20,000.00 with one surety in the like amount to the satisfaction of the concerned Court and on the condition that he will not tamper with the evidence and would not give any threat to the witnesses and would not try to delay the proceedings in the case. He will not indulge in 'criminal activities during the period of bail.