

## Jahid Husain @ Jahid Vs State of Rajasthan

**Court:** RAJASTHAN HIGH COURT (JAIPUR BENCH)

**Date of Decision:** July 4, 2016

**Acts Referred:** Juvenile Justice (Care and Protection of Children) Act, 2015 - Section 12

Penal Code, 1860 (IPC) - Section 376

Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 - Section 3(2)(v)

**Citation:** (2016) 3 CriLR 1438 : (2016) 4 WLN 24

**Hon'ble Judges:** Mr. Prashant Kumar Agarwal, J.

**Bench:** Single Bench

**Advocate:** Mr. Harendra Singh Sinsinwar, Advocate, for the Appellant; Mr. Prakash Thakuria, Public Prosecutor, for the Respondent

**Final Decision:** Allowed

### Judgement

@JUDGMENTTAG-ORDER

Mr. Prashant Kumar Agarwal, J.â€”Heard learned counsel for the parties.

2. By this revision petition, the petitioner, who is a ""juvenile in conflict with law"" has challenged the order dated 04.05.2016 passed by the District

& Sessions Judge, Bharatpur in Criminal Appeal No.93/2016 dismissing the appeal filed by the petitioner against the order dated 30.03.2016

passed by the Juvenile Justice Board, Bharatpur in FIR No.107/2015 registered at Police Station Kaman (District Bharatpur) for the offence

under Section 376 and for the offence under Section 3 (2) (V) of the SC/ST (Prevention of Atrocities) Act.

3. The bail application filed by the petitioner under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter to

be referred as "the Act") before the Juvenile Justice Board, Bharatpur was dismissed vide order dated 30.03.2016 mainly on the ground that the

offence for which the allegation has been made against the petitioner is serious, although, at the same time it was observed by the learned Board

that the seriousness of the offence is not a ground to decline bail to a juvenile.

4. Being aggrieved by the said order dated 30.03.2016, an appeal under Section 52 of the Act was filed by the petitioner before the Appellate

Authority and the same has been dismissed vide order dated 04.05.2016 on the ground that it would not be in the interest of justice to grant benefit

of bail to the petitioner and also on the ground that there is every possibility of petitioner coming in contact with known and unknown persons of

criminal nature. It was also observed by the learned Appellate Authority that in the facts and circumstances of the petitioner and also looking to the

gravity of the offence it would not be in the interest of justice to allow the appeal of the petitioner.

5. Dissatisfied by the impugned orders, the petitioner has preferred this revision petition before this Court.

6. Learned counsel for the petitioner submitted that the gravity and seriousness of the offence committed by a juvenile cannot be a ground to

decline bail to him. He also contended that the Courts below without taking into consideration the mandatory provisions of the Act, in a cursory

manner declined bail to the petitioner. It was submitted that there is no material on record to reach to a conclusion that if benefit of bail is granted

to the petitioner it would not be in the interest of justice and there is every possibility of petitioner coming in contact with known or unknown

persons of criminal nature. Attention was also invited of the Court towards report of Probation Officer dated 28.3.2016 which is favourable to the

petitioner.

7. On the other hand, learned Public Prosecutor defended the orders of the Courts below.

8. I have carefully considered the submissions made before me, perused the provisions of the Act and the case law cited before me.

9. It is well settled that ordinarily a "juvenile in conflict with law" must be released on bail unless the exceptional circumstances mentioned in Section

12 of the Act are clearly made out by evidence and the Juvenile Justice Board on perusing the material available on the record comes to a definite

conclusion that in the circumstance of the case, it would not be in the interest of the juvenile to release him on bail. It is also well settled that at the

time of consideration of bail gravity and nature of the offence cannot be looked into.

10. After carefully examining the provisions of the Act, I find that in both the impugned orders no exceptional circumstances as indicated in Section

12 of the Act to decline bail to the juvenile, are made out. Learned Board as well as the learned Appellate Court have not properly appreciated

the mandatory provisions of Section 12 of the Act and other provisions in relation to the juvenile and merely on the basis of unfounded

apprehension, the bail has been declined. In my opinion, the Act being a beneficial and social oriented legislation needs to be given full effect by all

concerned, whenever the matter relating to juvenile comes for consideration before them. In the absence of any material or evidence of reasonable

grounds, it can not be said that his release would defeat the ends of justice.

11. The net result of the above discussion is that the revision petition is allowed, order dated 30.03.2016 passed by the learned Juvenile Justice

Board, Bharatpur as well as the order dated 04.05.2016 passed by the learned Appellate Court i.e. Sessions Judge, Bharatpur declining bail to

the petitioner are, hereby, set aside and it is directed that the petitioner-Jahid Husain @ Jahid son of Shri Akhtar Husain shall be released on bail

on furnishing a personal bond by his natural guardian Akhtar Husain (father) in the sum of Rs. 50,000/- and a surety in the like amount to the

satisfaction of the Juvenile Justice Board, Bharatpur with the stipulation that on all subsequent dates of hearing he shall produce the petitioner

before the said Board or any other Court during pendency of the inquiry in the case and that his guardian shall keep proper look after of the

petitioner and keep him away from the company of known criminals.