

Vijendra Kumar Mali etc. Vs State of U.P.

Court: Allahabad High Court

Date of Decision: April 22, 2003

Acts Referred: Juvenile Justice (Care and Protection of Children) Act, 2000 " Section 12

Citation: (2003) CriLJ 4619 : (2003) 4 RCR(Criminal) 812

Hon'ble Judges: K.N. Sinha, J

Bench: Single Bench

Advocate: Satish Chandra and B.K. Tripathi, for the Appellant; A.G.A., for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

K.N. Sinha, J.

The present revisions have been filed against the order dated 10-2-2003 passed by the Sessions Judge, Sonebhadra rejecting the bail applications of the revisionists.

2. It appears that the revisionists were declared juvenile by order dated 27-11-2002 passed by the C.J.M. This fact was confirmed by the

Sessions Judge in his judgment. The Sessions Judge has rejected the bail applications against which Criminal Revisions Nos. 324 of 2002 and

2.177 of 2002 were filed. The said revisions were allowed by this Court setting aside the order of the Sessions Judge and that of the C.J.M., so

far as it related to refusal of bail. It was also directed by this Court's order dated 20-12-2002 that if the revisionists move application for bail, the

court shall dispose it of keeping in view the provisions contained in Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000

(hereinafter referred to as "the Act.")

3. The above order was placed before the Sessions Judge, Sonebhadra but he again refused bail to the revisionists by his order dated 10-2-2003.

Being aggrieved by the said order, the present revisions have been filed.

4. I have heard the learned counsel for the revisionists and the learned A.G.A. and also perused the impugned orders.

5. The Sessions Judge, Sonebhadra has probably lost sight of the provisions of the Act and ignored the directions issued by this Court passed in

the aforesaid revisions. He has mentioned the ground of refusal of bail to be the gravity of the offence, which is none of the grounds mentioned in

Section 12 of the Act. It appears from this order that the Sessions Judge, Sonebhadra was bent upon to refuse the bail without caring for the law

on this point. Section 12 of the Act provides "that the juvenile offender shall be released on bail but the exception would be that he shall not be so

released if there appears 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."

6. This Court in a number of judgments has categorically held that bail to the juvenile can only be refused if anyone of the grounds existed. So far

as the ground of gravity is concerned, it is not covered under the above provisions of the Act. If the bail application of the juvenile was to be

considered under the provisions of the Code of Criminal Procedure, there would have been absolutely no necessity for the enactment of the

aforesaid Act. The language of Section 12 of the Act itself lays down that notwithstanding anything contained in the Code of Criminal Procedure,

1973 (2 of 1974) or in any other law for the time being in force, the juvenile accused shall be released. Not only this, the Parliament re-considered

the entire matter and repealed the old Act of 1986 by introduced the new Act No. 56 of 2000, raising the age from 16 to 18 years. This has been

done keeping in view the welfare of the child so that even after committing an offence a child may not become a hardened criminal but he may

reform himself.

7. The order of the Sessions Judge nowhere shows that anyone of the grounds for refusing bail existed. Under these circumstances the refusal of

the bail was not only unjustified but illegal and against the intention of the Act.

8. The Sessions Judge while exercising the "powers of a Sessions Judge must know that the orders of the Superior Court have got to be complied

with and while discharging his duties as such he should not be swayed away by his whims but keep in mind the intention of the Legislature.

9. The revisions are allowed. The orders dated 10-2-2003 are set aside. The revisionists shall be admitted to bail on their guardians filing a

personal bond and two sureties in the like amount to the satisfaction of the C.J.M. Sonebhadra.

10. The Registrar General shall place the record of this case along with the judgment before the Administrative Judge of Sonebhadra for issuing

necessary instructions to the concerned Sessions Judge or to make such remarks in his Character Roll as deemed fit.