
Jitendra Vs State of U.P.

Crl. Revision No. 2065 of 2014

Court: Allahabad High Court

Date of Decision: July 31, 2014

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2000 & Section 12, 12(1) # Penal Code, 1860 (IPC) & Section 376D

Citation: (2014) 3 ACR 3072

Hon'ble Judges: Ranjana Pandya, J

Bench: Single Bench

Advocate: Satendra Pratap Singh, Advocate for the Appellant

Judgement

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Ranjana Pandya, J.

Heard learned counsel for the revisionist and learned A.G.A.

2. This revision has been preferred by the revisionist against the judgment and order dated 3.6.2014 passed by Additional District and Sessions

Judge, Court No. 5, Meerut, in Criminal Appeal No. 120 of 2014 dismissing the appeal and order dated 20.12.2013 passed by the J.J. Board

dismissing the bail application of the juvenile in application No. 199 of 2013.

3. Facts in brief giving rise to this revision are that a first information report was lodged at Police Station, Sardhana, Meerut with the allegation that

the complainant Bhism has filed a first information report before the police station stating that his daughter Anjali aged about 8 years had gone to

call her elder brother Mohit who was playing in the primary school. She was accompanied with her younger brother Sonu. As soon as she reached

near the school, Vikash aged about 19 years and Rajdeep @ Sandeep aged about 15 years who were related to the same village said to Anjali

that her brother Mohit has gone towards jungle. When Anjali had not reached home after some time her mother Sunita went towards school to find

out her daughter's whereabouts where she found her younger son Sonu was weeping and hue and cry of her daughter Anjali was coming from the

field of sugar cane. Sunita entered into the field and saw that Vikash and Rajdeep alias Sandeep were committing rape with her daughter. The

accused seeing after Sunita fled away towards the jungle. The occurrence took place at about 04:30 p.m. Anjali was brought to home. Her whole

body was stained with blood and later on the report was lodged.

4. Thus, the revisionist was named in the first information report.

5. The revisionist claimed his son namely Rajdeep alias Sandeep to be a juvenile under the provisions of Juvenile Justice (Care and Protection of

Children) Act, 2000.

6. Perusal of the records shows that he was declared juvenile by the J.J. Board on 23.10.2013. There is nothing on record to show that this order

did not attain finality.

7. It is contended by the learned counsel for the revisionist that in the present case the revisionist's son namely Rajdeep alias Sandeep had been

declared juvenile by the Principal Judge, Juvenile Justice Board and thus he is entitled for bail under the provisions of Section 12 of the Act, but the

learned Juvenile Justice Board and the learned Additional Sessions Judge, Meerut have refused the bail without considering the provisions as laid

down under Section 12 of the Act. He has argued that no plausible and valid reasons have been given for refusing the bail of revisionist's son

namely Rajdeep alias Sandeep.

8. The revision has been opposed by the learned A.G.A. by submitting that the offence committed by the revisionist's son is of grave nature. If he

is released on bail he would come in the association of the criminals, his parents are not educated and they will not be in a position to look after

and guide the accused. In such circumstances, the revision is likely to be dismissed and the revisionist's son namely Rajdeep alias Sandeep may

not be released on bail.

9. Having regard to the facts and circumstances of the case and submissions made by the learned counsel for the revisionist and learned A.G.A.

and from the perusal of the record, it is clear that the order of declaring Rajdeep alias Sandeep a juvenile has become final and for the purposes of

bail, the provisions of Section 12(1) of the Act are as follows :

(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 Board, 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, physical or psychological danger or that his

release would defeat the ends of justice.

10. In the case of refusal of the bail, some reasonable grounds for believing the above mentioned exceptions must be brought on record by the

prosecution but in the present case, there is nothing on the basis of which the court can come to such conclusion. The grounds, mentioned by the

learned Additional Sessions Judge and the Juvenile Justice Board shows that the prosecution failed to give the name of any such criminal who

would come in the association with the juvenile. Thus, the Principal Judge, Juvenile Justice Board and the appellate court could not have refused

bail on the presumption that he would come into the contact with criminals.

11. Thus, the order dated 3.6.2014 passed by the appellate court in Criminal Appeal No. 120 of 2014 and order dated 20.12.2013 passed by

the J.J. Board, Meerut in Application No. 199 of 2013 is liable to be set aside and the revision is liable to be allowed.

12. Let the revisionist's son Rajdeep alias Sandeep involved in Case Crime No. 481 of 2013, under Section 376D, I.P.C. and Section 3/4 of the

Prevention of Children from Sexual Offences Act, 2012 Police Station Sardhana, District Meerut be released on bail on his guardian's furnishing

personal bond and two sureties in the like amount to the satisfaction of the court concerned and undertaking to the effect that he will not let the

juvenile come in the association with any known criminal and will assure that he is not exposed to moral, physical or psychological danger.

Accordingly, the revision is allowed.