

Rahul Mishra Vs State of M.P.

Court: Madhya Pradesh High Court

Date of Decision: Aug. 11, 2000

Acts Referred: Juvenile Justice Act, 1986 " Section 18, 37, 38
Penal Code, 1860 (IPC) " Section 147, 294, 302, 307, 323

Citation: (2001) CriLJ 214 : (2001) 1 MPLJ 172

Hon'ble Judges: Sreesh Chandra Pandey, J

Bench: Single Bench

Advocate: Sunil Sinha, for the Appellant; P. Sharma, Government Advocate, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

S.C. Pandey, J.

This is criminal revision u/s 38 of the Juvenile Justice Act, 1986 (henceforth "the Act"). The applicant Rahul Mishra is being charged under

Sections 147, 294, 452, 323, 506 Part-II, 307 and 302 of the Indian Penal Code in Crime No. 8/2000, Police Station Basantpur, District

Sarguja. It appears that there is no dispute between the State and the applicant regarding the age of the applicant. He is less than 16 years of age

and, therefore, he is a juvenile and, consequently deemed to be a juvenile offender with the meaning of the Act.

The applicant was not granted anticipatory bail by this Court. However, he was produced before the Juvenile Court presided over by two

Judvenile Magistrates First Class at Ambikapur by order dated 21-6-2000. Both the Magistrates of the Juvenile Court have passed an order

sending the applicant to juvenile home.

In appeal u/s 37 of the Act, the learned Sessions Judge, by order dated 27-6-2000, has confirmed the order passed by the Juvenile Court.

In this revision, u/s 38 of the Act, it has been urged by learned counsel for the applicant that once a person is held to be a juvenile delinquent, then

Section 18 of the Act would govern the question of grant of bail and the custody of juvenile. It is argued that the bail to a juvenile can only be

refused if there appears to be a reasonable ground for believing that his release is likely to bring him into association with any known criminals or

expose him to moral danger or his release would defeat the ends of justice. It is argued that this consideration is notwithstanding anything contained

in the Code of Criminal Procedure, 1973. The Court below has refused the bail to the applicant on the ground that the applicant was present at the

spot when the crime was committed and prima facie he was liable to be tried for the offences for which he is charged.

In the opinion of this Court, the considerations for grant of bail to a juvenile delinquent are entirely different. Firstly, the prosecution, opposing the

bail to the applicant, must establish or there must be some material on record for believing that in case, the juvenile delinquent is released on bail, he

is likely to come into association with a known criminal. Or in the alternative secondly, the aforesaid juvenile delinquent is likely to be exposed to

moral danger. Or in the other alternative thirdly, his release would defeat the ends of justice. In the opinion of this Court, it is only third ground

which appears to have prohibited the Court below because it held that it was not proper to release the applicant on bail on the ground that there

was a prima facie case against him. This interpretation of the Statute u/s 18 of the Act is not exactly in consonance with the intention of legislature.

In the opinion of this Court, the words "notwithstanding anything contained in the Code of Criminal Procedure, 1973" would indicate that the

considerations which are germane for granting or refusing bail to persons who are not juvenile delinquent shall not come into play for granting or

refusing bail to them. Here the words "ends of justice" should be confined to those facts which show that the grant of bail itself is likely to result in

injustice. For example, there is likelihood of the juvenile delinquent, to whom the bail is granted, interfering with the course of justice or is likely to

abscond from the jurisdiction of the Court. The aforesaid categories are only by way of illustrative and exhaustive. The juvenile delinquent may

appear to be guilty prima facie but he is especially protected by the Act and is favourably considered for grant of bail u/s 18 of the Act for the

reason of his age.

Accordingly, this Court is of the view that the order passed by the Court below dated 27-6-2000 in Criminal Appeal No. 44/2000 and the order

dated 21-6-2000 passed by the Juvenile Court, Ambikapur, District Sarguja in relation to Crime No. 8/2000 are liable to be set aside. It is

directed that the applicant shall be released on bail on his furnishing a bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with one surety in the

like amount to the satisfaction of Juvenile Court subject to any reasonable condition imposed upon him by the Juvenile Court. Consequently, this

revision is allowed and the M. (Cr.) P. No. 435/2000 for grant of interim order is disposed of.