

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 46/2020

Kalu Ram S/o Krishan Ram, by caste Jat, Aged About 16 Years,
R/o 10 BLM Barsalpur Police Station Bajju District Bikaner
through Guardian Pappu Ram S/o Nanu Ram Jat, Aged 48 Years,
10 Blm Barsalpur Police Station Bajju, District Bikaner.

(At Present In Observation Home, Bikaner).

-----Petitioner

Versus

1. State of Rajasthan
2. Manu W/o Shri Pukhraj, By Caste Kumhar, r/o Barsalpur,
Police Station Bajju, District Bikaner.

-----Respondents

For Petitioner(s) : None present
For Respondent(s) : Mr.Farzand Ali, AAG

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

15/04/2020

Lawyers are abstaining from work in view of the unprecedented situation being faced by the country due to pandemic of novel corona virus (COVID-19).

I have heard learned Additional Advocate General and gone through the material available on record.

The allegation against the petitioner is of offence under Sections 376(D), 450, 342 IPC. The bail application filed by the petitioner under Section 12 of the Juvenile Justice (Care and Protection of Children). Act, 2015 before the Principal Magistrate, Juvenile Justice Board, Bikaner was rejected vide order dated 02.01.2020. Being aggrieved by the said order, an appeal was

filed by the petitioner before the learned Special Judge (POCSO Act Cases), Bikaner and the same has been dismissed by learned Special Judge vide order dated 04.01.2020

Being aggrieved of the orders dated 02.01.2020 and 04.01.2020 passed by the Courts below, the petitioner has preferred this revision petition before this Court.

It is submitted in the petition that there is no evidence to show that if the juvenile-petitioner is released on bail, then his release is likely to bring him into association with any known criminal, or expose them to moral, physical or psychological danger, or that his release would defeat the ends of justice. It is further submitted that learned Courts below have not appreciated the fact that the petitioner is juvenile and entitled to get benefit of provisions of the Act of 2015. Section 12 of the Act of 2015 clearly provides that if the accused is juvenile, then he should be released on bail, but learned Courts below fully ignored the provisions of the Act of 2015. The petitioner is in custody since long time and no further detention of the petitioner is required for any purpose. According to the petitioner, the gravity of the offence committed cannot be a ground to decline bail to a juvenile.

Learned Additional Advocate General defended the impugned order passed by the Juvenile Justice Board in declining the bail to the petitioner as also the judgment passed by the Appellate Court upholding the order passed by the Juvenile Justice Board.

I have carefully considered the submissions made by the learned Additional Advocate General for the State and also perused the provisions of the Act of 2015.

The language of Section 12 of the Act of 2015 conveys the intention of the Legislature to grant bail to the juvenile,

irrespective of nature or gravity of the offence, alleged to have been committed by him and bail can be denied only in the case where 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 ends of justice.

In this context, I have also scanned through and perused the orders passed by the courts below.

Having carefully examined provisions of the Juvenile Justice Act vis-a-vis the orders passed by the courts below, I do not find that any of the exceptional circumstances, to decline bail to a juvenile, as indicated in Section 12 of the Act of 2015, is made out.

In view of the aforesaid discussion, this revision petition is allowed and the order dated 02.01.2020 passed by the Principal Magistrate, Juvenile Justice Board, Bikaner as well as order dated 04.01.2020 passed by learned Special Judge, (POCSO Act Cases), Bikaner declining bail to the petitioner is hereby set aside.

Accordingly, it is ordered that the juvenile accused-petitioner Kalu Ram S/o Krishan Ram shall be released on bail in FIR No.206/2019, P.S. Bajju, Distt. Bikaner upon furnishing personal bond by his natural guardian Pappu Ram S/oNanu Ram Jat in the sum of Rs.1,00,000/- each along with a surety in the like amount to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Bikaner with the stipulation that on all subsequent dates of hearing, he shall appear before the said court or any other court, during pendency of the investigation/trial in the case and that his

guardian shall keep proper look after of the delinquent child and secure him away from the company of known criminals.

Copy of this order be sent to the trial court immediately.

(MANOJ KUMAR GARG),J

57-NK/-

RAJASTHAN HIGH COURT



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