

Court No. - 86

Case :- CRIMINAL APPEAL No. - 6703 of 2024

Appellant :- Mr X Juvenile

Respondent :- State of U.P. and Another

Counsel for Appellant :- Arjun Singh Solanki

Counsel for Respondent :- G.A., Indra Kumar Singh

Hon'ble Nalin Kumar Srivastava, J.

1. The present Criminal Appeal has been preferred by the appellant - 'Mr X Juvenile' through his natural guardian father under Section 101(5) of The Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "the Act") against the judgment and order dated 17.5.2024 passed by Juvenile Court / Special Judge (POCSO) Act, Kasganj in bail application no. 772 of 2024, case crime no. 548 of 2022 under Sections 498-A, 304-B IPC and 3/4 Dowry Prohibition Act, P.S. Soron, District Kasganj whereby the Court concerned has rejected the bail application of the appellant.

2. The appellant is an accused in the aforesaid case. He was declared juvenile in conflict with law. The application for bail was rejected by the Court concerned on the ground that his release on bail 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.

3. Heard Sri Arjun Singh Solanki, learned counsel for the appellant, Shri Indra Kumar Singh, learned counsel for the opposite party no. 2 and learned A.G.A. for the State and perused the impugned order.

4. Learned counsel for the appellant submitted that the Court concerned rejected the bail on the basis that after release on bail, the appellant would again involve himself in criminal activities. His release on bail is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger. Learned counsel submitted that there was no material on record to show that release of appellant on bail would defeat the ends of justice.

5. Section 12 (1) of the Act provides as follows:

"12. Bail of juvenile. (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 [or placed under the supervision of a Probation Officer or under the care of any fit institution or fit person] provided that 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.

6. The aforesaid provision provides that a juvenile accused has to be released on bail unless there are 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. No such report was filed by the Probation Officer or the police so as to bring the case of the appellant within the exceptions provided in Section 12 of the Act. There is also nothing on record to show that the release of the appellant on bail would defeat the ends of justice.

7. Even on merits, although it has got no relevance in respect of disposal of bail application moved by a Juvenile offender, it is submitted that the F.I.R. of the case was lodged on 25.12.2022. The appellant never demanded additional dowry from the deceased or her parents. She was not subjected to cruelty or harassment in connection with the alleged demand. In the post mortem report of the deceased only ligature mark has been found on her neck and cause of death was found asphyxia due to ante mortem hanging. The appellant is quite innocent and he has not committed any offence, as alleged. False F.I.R. has been lodged against the appellant and other family members. In these circumstances, the appellant, who has been declared a juvenile offender, is entitled to be released on bail.

8. It is pertinent to mention that provision has been made under Section 12 of the Juvenile Justice Act that when any juvenile who is accused of a bailable or a non-bailable offence, is arrested or detained or is brought before a board then irrespective of the accusation he shall be released on bail except when :

(i) there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminals or

(ii) that it will expose him to moral, physical or psychological danger, or

(iii) that his release would defeat the ends of justice.

9. In this case, there appears to be nothing on record showing that there is moral, physical or psychological danger to the juvenile, if he is released, nor there was any possibility that he will come in the company of known criminal nor there is any reason to conclude that his release on bail will defeat the ends of justice. Nothing adverse was found against the nothing adverse was found against the appellant in District Probation Officer's report in District Probation Officer's report.

10. Hon'ble Supreme Court in **Re Exploitation of Children in Orphanages in the State of Tamil Nadu Vs. Union of India and Others, (2020) 14 Supreme Court Cases 327** held like this :

"7. Sub-section (1) makes it absolutely clear that a child alleged to be in conflict with law should be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person. The only embargo created is that in case the release of the child is likely to bring him into association with known criminals or expose the child to moral, physical or psychological danger or where the release of the child would defeat the ends of justice, then bail can be denied for reasons to be recorded in writing. Even if bail is not granted, the child cannot be kept in jail or police lockup and has to be kept in an observation home or place of safety."

11. It has been held by the Hon'ble Supreme Court in **Dr. Subramaniam Swamy Vs. Raju, 2014 (86) ACC 637** that a juvenile has to be released on bail unless the Court has a reasonable ground to believe that his release will bring him into association of some known criminal, or will expose him to moral, physical or psychological danger or his release would defeat the ends of justice.

12. The Court concerned was not justified in rejecting the bail application of the appellant as nothing adverse was found against him in District Probation Officer's report. Learned Juvenile Court has also not considered the provisions of Section 12 of the Act in proper perspective. The District Probation Officer report wherein nothing adverse was found to the Juvenile offender was also not considered by the Board and the Juvenile Court as well in positive and right perspective. Therefore, the court is of the view that the

impugned order is not sustainable and is liable to be set-aside.

13. Hence, the criminal appeal is **allowed** and the Impugned order dated 17.5.2024 passed by the Juvenile Court is set-aside.

14. The appellant - Mr X Juvenile son of Nathuram resident of Sagarpur, post Gangagarh, Soron, Kasganj involved in case crime no. 548 of 2022 under Sections 498-A, 304-B IPC and 3/4 Dowry Prohibition Act, P.S. Soron, District Kasganj be released on bail on his furnishing a personal bond through his legal guardian - father and two sureties each in the like amount to the satisfaction of the Court concerned with the undertaking that the guardian father namely Nathuram shall keep the juvenile away from unsocial and criminal association and will look after his education and health, keeping his mental and social status. He will also give an undertaking that on being so released on bail, the accused-appellant 'Mr X juvenile' will not however indulge in commission of any crime and he will ensure his presence during trial before the court whenever so required by court.

Order Date :- 12.9.2024

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