

In the High Court at Calcutta
Criminal Revisional Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Subhasis Dasgupta.

CRR No. 1713 of 2020

Smt. Munni Devi
Vs.
State of West Bengal.

For the Petitioner :Mr. Sourav Bhattacharyya, Adv.
Ms. Rimpay Mukherjee, Adv.

For the State :Mr. Sudip Ghosh, Adv.
Mr. Apurba Kumar Datta, Adv.

Heard on : 22.01.2021

Judgment on : 27.01.2021

Subhasis Dasgupta, J:-

The impugned order, dated 09.07.2020 passed by the learned Additional District and Sessions Judge (In-Charge) Bench-II, City Sessions Court, Calcutta in connection with Sessions Case No. 40 of 2018 under Section 302/34/394 of the Indian Penal Code, thereby rejecting the prayer for bail is a subject of challenge in this case, under the behest of Section 102 of the Juvenile Justice Act, 2015 read with Section 397 and 401 of the Code of Criminal Procedure.

Learned advocate Mr. Bhattacharyya representing the petitioner had challenged the legality and propriety of the impugned order alleging the in appropriate manner of discharge of judicial function by the court below.

As regards the illegality committed by the court below, Mr. Bhattacharyya contended that the statutory provision contained in Section 12 of the Juvenile (Care and Protection of Children) Act, 2015 had not been duly complied with, while making rejecting of the prayer for bail. Alleging such illegality for want of supplying explicit reasons in terms of the proviso appended to Section 12(1) of the Act referred above, the impugned order was alleged to be falling sort of propriety of the order, supposed to be discharged by the court below.

Mr. Ghosh representing the State submitted that the petitioner sought for bail in a murder case, and the court below having found sufficient materials in C.D. already collected against the petitioner, rejected the prayer for bail, and thereby favouring further detention of the petitioner after re-visualizing the desperate nature and manner of the commission of the murder involved in this case.

Mr. Ghosh adverting to previous order dated 9th July, 2020 contended that at the time of commission of offence, petitioner was minor, but with the passage of time petitioner had already attained his majority. The State thus attempted to show that there had been previous rejection of the prayer for bail by the learned court below concerned so as to proceed ahead with this case.

While assailing the impugned order for not making adequate compliance of Section 12 of the Juvenile Justice Act 2015, reliance was sought to be

obtained by the learned advocate for the petitioner, referring two unreported decisions of **Madhya Pradesh High Court** rendered in the case of **Rahul Parihar Vs. State of M.P. & Anr.**, and of **Meghalaya High Court at Shilong** rendered in the case of **Shri Nagaitlang Suchiang Vs. State of Meghalaya and Anr.**, in order to establish that petitioner could be very well released on bail for the infraction of law, mentioned herein above, as sought to be established.

Mr. Ghosh reacted to such decisions countering the same by referring an unreported decision of **Madhya Pradesh High Court** rendered in the case of **Binay Tiwari vs. State of M.P. Through Police Station Maihar, District Satna (MP)**, in order to challenge that when the learned court below upon perusal of materials, already collected in the case of docket was pleased to reject the prayer for bail bearing in mind the desperate nature and manner of commission of the crime, together with other materials, though not supplying explicit reasons in the order impugned, there were reasons on the part of the learned court below to record his dissatisfaction so as to enlarge the petitioner on bail, and such discretion being exercised judiciously should go undisturbed being a part of due consideration of the materials collected in the C.D. transpiring materials against the petitioner.

Herein in this case the principal thrust is against the impugned order for not recording the reasons behind the rejection of the prayer for bail, as statutorily should have been made in the order, under the proviso appended to Section 12(1) of the Juvenile Justice Act, 2015. And that being the only subject of challenge so as to reveal the propriety and illegality of the order

under challenge under the behest of Section 102 of the Juvenile Justice Act, 2015, the court is of the view that revisional application may be disposed of, so as to sub-serve the purpose of justice, directing the learned court below to mandatorily observe the proviso appended to Section 12(1) of the Nuvenile Justice Act, 2015, by supplying the reasons, while making rejection of the prayer for bail in an appropriate case, curved out in Section 12 of the Juvenile Justice Act, 2015.

Liberty is thus given to the petitioner to renew his prayer for bail by filing an appropriate application before the court below, and if any bail petition is filed at the instance of the petitioner, the same shall be disposed of without causing any delay upon making mandatory compliance of Section 12(1) proviso, and also in terms of the established principles and guidelines, if therebe any, operative over this field.

With this direction and observation, the revisional application stands disposed of.

Office is directed to communicate this order to the concerned Court below without making any delay.

Urgent photostat certified copy of this judgment, if applied for, be given to the appearing parties as expeditiously as possible upon compliance with all necessary formalities.

(Subhasis Dasgupta, J.)