

IN THE HIGH COURT OF ORISSA AT CUTTACK
CRLREV No.451 of 2021

Manoj Naik

....

Petitioner

Mr. Biswajit Ranjan Tripathy, Adv.

-versus-

State of Odisha and Anr.

....

Opposite Parties

Mr. K. Gaya, ASC

CORAM:

MR. JUSTICE S.K. PANIGRAHI

ORDER

14.02.2022

Order No.

03.

1. This matter is taken up through hybrid arrangement.
2. This CRLREV has been filed by the petitioner challenging the order dated 30.10.2021 passed by the learned Additional District and Sessions Judge-Cum- Special Court under POCSO Act, Angul dismissing the Criminal Appeal No.07 of 2021 and confirming the order dated 21.09.2021 passed by the learned A.S.J.-Cum- Principal Magistrate, Juvenile Justice Board, Angul (hereinafter referred to as “the PMJJB, Angul” for brevity) in J.D. Case No.38 of 2020 rejecting the prayer of the petitioner to release him on bail.
3. It appears that the petitioner in this case was a juvenile in conflict with law and said to have been indicted along with another and apprehended on 25.12.2020 in a case under Sections 376 DA/313/ 34 of the Indian Penal Code, 1860 (hereinafter referred to as “the I.P.C.” for brevity) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as “the POCSO Act” for brevity). The petitioner being indicted in the aforesaid case had

made a prayer before the learned PMJJB, Angul under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as 'the Act' for brevity) for release on bail. Learned PMJJB, Angul vide the aforesaid impugned order refused to release the petitioner on bail observing that the release of the juvenile on bail would expose him to physical, moral and psychological danger which would defeat the ends of justice. Challenging the same, the petitioner filed the aforesaid criminal appeal, but the learned District and Sessions Judge-Cum- Special Court under POCSO Act, Angul held that the petitioner was involved in grievous and serious offence and his release would send a bad message to the society. It would also encourage the likeminded persons to commit similar type of offences, hence, for larger interest of the society and the victim, learned Special Court confirmed the order passed by the learned PMJJB, Angul.

4. Needless to say that Section 12 of the Act mandates that a juvenile in conflict with law deserves to be released on bail with or without surety or be placed under the supervision of a Probation Officer or under the care of any fit institution or fit person. However, he shall not be so released if there appears reasonable grounds for believing that his/her release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger which would defeat the ends of justice. From the aforesaid, it appears that the release on bail of a juvenile in conflict with law is a rule but refusal is an exception which can only be done in the existence of circumstances which are detrimental to the interest of the

juvenile in conflict with law or defeats the ends of justice. Heinousness and seriousness of an offence has got nothing to do while considering the prayer for bail. The satisfaction to reject the prayer of a juvenile in conflict with law for bail on the ground of presence of circumstances as stated above must be based on material on record and material satisfaction of the court.

5. Keeping in mind the same when the impugned order is addressed, it appears to this Court that virtually the PMJJB, Angul has not justified how the release of the juvenile in conflict with law was going to defeat the ends of justice which actuated the court to refuse the juvenile in conflict with law to go on bail. Learned District and Sessions Judge-Cum- Special Court under POCSO Act, Angul also in ignorant to the aforesaid fact and law refused to interfere with the order of the learned PMJJB, Angul in exercise of its appellate jurisdiction. Without appreciating the material available on record in this regard, he confirmed the same. Both the courts have virtually not discussed the materials as to how they arrived at such conclusion. Only observing the ritual of the language of Section 12 of the Act, the prayer was refused by the trial court and confirmed by the appellate court.

6. Therefore, it appears to this Court that both the forums have exercised jurisdiction vested on them with material irregularity. Hence, this CRLREV is allowed and the impugned order of the learned PMJJB, Angul which was confirmed by the order of the appellate court stands set aside. The matter is remitted back to the learned PMJJB, Angul to address the prayer of the

petitioner afresh giving a chance of hearing to the parties with a direction to pass reasoned order keeping in mind the aforesaid observation and the law in this regard, within a period of thirty days of receipt/communication of this order.

7. With the aforesaid order, this criminal revision stands disposed.

8. Urgent certified copy of this order be granted on proper application.

(*S.K. Panigrahi*)
Judge

BJ

