

HON'BLE Dr. JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.10144 of 2022

ORDER:

Heard Sri S.Nagesh Reddy, learned counsel for the petitioner, as well as learned Public Prosecutor who is representing the respondent.

2. Seeking pre-arrest bail, the petitioner who is arrayed as accused No.9 in Crime No.506 of 2022 of Shankarpally Police Station, Cyberabad District, is before this Court.

3. Learned counsel for the petitioner submits that the petitioner, who is aged about 17 years, is a minor and hence, he cannot be arrested. But, Police are trying to arrest the petitioner.

4. On the other hand, the submission of learned Public Prosecutor is that in case, the petitioner is a minor, the question of granting bail or anticipatory bail does not arise and he has to appear before the Juvenile Justice Board as provided under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

5. Section 2(12) of the Juvenile Justice (Care and Protection of Children) Act, 2015 says a 'child' means a

person who has not completed eighteen years of age and Section 2(13) the Juvenile Justice (Care and Protection of Children) Act, 2015 says that “child in conflict with law” means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age as on the date of commission of such offence.

6. The version of the petitioner is that he is aged about 17 years as on the date of the alleged offence.

7. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 which deals with bails, reads as follows:-

“Bail to a person who is apparently a child alleged to be in conflict with law.-

(1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or 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 person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the persons release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home or a place of safety, as the case may be in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the

bail order, such child shall be produced before the Board for modification of the conditions of bail.”

8. Thus, by the above provision it is clear that when a person who is apparently a child and is alleged to have committed either a bailable or non-bailable offence is apprehended or detained by Police or appears or brought before the Court, the said person be released on bail with or without sureties subject to the conditions mentioned in the said provision.

9. Therefore, it is for the petitioner to appear before the Juvenile Justice Board. Learned counsel for the petitioner states that in case, a direction is issued to that effect, the petitioner will appear.

10. Having considered the submissions thus made, this Criminal Petition is disposed of with the following directions:-

- (i) The petitioner shall appear before the Juvenile Justice Board within ten days.
- (ii) On such appearance, the Juvenile Justice Board shall enquire with regard to the age of the petitioner and decide with regard to his release on bail duly taking into consideration the other relevant factors as

provided under law. While doing so, Sections 14 to 18 of the Juvenile Justice (Care and Protection of Children) Act, 2015, be taken note of.

- (iii) Till such time, the petitioner shall not be arrested.

11. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

23.11.2022
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