

HON'BLE Dr.JUSTICE CHILLAKUR SUMALATHA

CRIMINAL PETITION No.2407 of 2023

ORDER:

1. Seeking pre-arrest bail, the present Criminal Petition is filed under Section 438 Cr.P.C. on behalf of the petitioner, who is arrayed as Accused No.1 (however, child in conflict with law) in Crime No.52 of 2023 of Vemulawada Town Police Station, Rajanna Sircilla District.
2. Heard Ms.Alekhy, learned counsel who argued on behalf of Sri P.Giri Krishna, learned counsel on record for the petitioner as well as the learned Additional Public Prosecutor who is representing the Respondent-State.
3. Stating that the petitioner was born in the year 2007 and thus he has not attained the age of majority, learned counsel for the petitioner states that the petitioner cannot be arrested. But Police are trying to arrest the petitioner and therefore, the petitioner is before this Court. Learned counsel also submits that the alleged injured sustained only simple injuries.

4. The submission of the learned Additional Public Prosecutor is that taking into consideration the age of the petitioner, necessary orders may be passed.

5. As per Section 2(12) of the Juvenile Justice (Care and Protection of Children) Act 2015, a 'child' is a person who has not completed the age of eighteen years.

6. The submission of the learned counsel for the petitioner is that the petitioner was born in the year 2007 and as such, he is aged about 15 years at present. A copy of birth certificate is produced.

7. Learned Additional Public Prosecutor did not deny the age of the petitioner as projected by the learned counsel for the petitioner.

8. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 deals with grant of bail to a person who is apparently a child alleged to be in conflict with law. The said provision reads as under:-

**“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.”

3. Having considered the law thus laid down with regard to the detention and release of a person in conflict with law as per the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015, this Court is of the view that the petitioner has to be directed to appear before the Juvenile Justice Board for passing appropriate orders in that regard.

4. Therefore, the 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.

5. Miscellaneous petitions pending, if any, shall stand closed.

Dr. JUSTICE CHILLAKUR SUMALATHA

Date:31.03.2023
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