

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

CRIMINAL PETITION No.5650 of 2025

ORDER:

This Criminal Petition is filed under Section 12(1) of the Juvenile Justice Act, 2015 (for short 'JJ Act') seeking bail to the petitioner/accused No.1 in SC.PCS.No.70 of 2018 in Crime No.152 of 2017 on the file of the P.S.Chandrayanagutta, Hyderabad, registered for the offence punishable under Sections 364, 377, 302 and 201 of the Indian Penal Code, 1860 (for short 'IPC') and Section 5(m) r/w 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act').

2. The case of the prosecution is that on 29.06.2017, the complainant lodged a complaint stating that he is blessed with three sons and two daughters. His younger son, the petitioner, went missing from their home without any information on 28.06.2017, at around 11:00 hours. The complainant searched all surrounding areas and relatives' homes but could not locate him anywhere. Basing on the same a case was registered in Crime No.152 of 2017.

3. Heard Ms.Pushpinder Kaur, learned counsel for the petitioner and Mr.Syed Yasar Mamoon, learned Additional Public Prosecutor for the respondent-State.

4. Learned counsel for the petitioner submitted that the petitioner was found guilty of the offences punishable under Section 6 of the POCSO Act and Sections 364, 377, 302 and 201 of IPC and he was convicted u/s.235 (2) of Cr.P.C. and sentenced to undergo rigorous life imprisonment and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 6 of POCSO Act, sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 364 of IPC, sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 377 of IPC, sentenced to undergo rigorous life imprisonment and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the

offence under Section 302 of IPC and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 201 of IPC *vide* judgment dated 27.06.2019 in SC.PCS.No.70 of 2018 on the file of the learned I Additional Metropolitan Sessions Judge-cum-Special Judge for Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Hyderabad. Aggrieved by the said judgment, petitioner had approached this Court and filed Criminal Appeal No.626 of 2019 and the learned Division Bench of this Court set aside the judgment dated 27.06.2019, passed by the learned I Additional Metropolitan Sessions Judge-cum-Special Judge for Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Hyderabad, and following the judgment of the Hon'ble Supreme Court in ***Ajeet Gurjar v. The State of Madhya Pradesh***¹, remanded the case back to the Children's Court for conducting an inquiry in accordance with Section 19(1) of the JJ Act. The learned Division Bench further held that if the Children's Court comes to a conclusion that the appellant can be tried as an adult, there need not be

¹ 2023 Live Law (SC) 857

a *de novo* trial and the Children's Court can pass judgment on the basis of evidence available on record and the independent assessment made by it. The Children's Court shall give preference to this case and dispose of it as expeditiously as possible. The facts of the cases are not discusses since we find an illegality in the Children's Court abdicating its duty under Section 19 of the JJ Act to conduct an independent assessment.

4.1. Learned counsel for the petitioner further submitted that the petitioner was arrested on 27.06.2019 and since he is in judicial custody and he is mentally retarded person and the petitioner is not having any other criminal antecedents. She further submitted that the proceedings in the Children's Court may take considerable time and the petitioner will appear before the concerned Court as and when required for disposal of the case and shall abide by the conditions, which are going to be imposed by this Court. Hence, prayed for grant of bail. Hence, prayed for grant of bail.

5. *Per contra*, learned Additional Public Prosecutor submitted that petitioner has committed a grave offence and the petitioner is entitled to file an application under Section 12(1) of the JJ Act before the concerned Court for grant of bail and the petitioner without filing such

application straightaway, approached this Court and filed the present petition. Hence, prayed to dismiss the petition.

6. Having considered the rival submissions made by the respective parties and after perusal of the material available on record, it reveals that the petitioner was convicted u/s.235 (2) of Cr.P.C. and sentenced to undergo rigorous life imprisonment and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 6 of POCSO Act, sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 364 of IPC, sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 377 of IPC, sentenced to undergo rigorous life imprisonment and to pay a fine of Rs.1,000/-, in default of payment of the fine amount, he shall undergo simple imprisonment for a period of six months, for the offence under Section 302 of IPC and sentenced to undergo rigorous imprisonment for a

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dispose of it as expeditiously as possible. The facts of the cases are not discusses since we find an illegality in the Children's Court abdicating its duty under Section 19 of the JJ Act to conduct an independent assessment. It is not in dispute that the petitioner is in jail since 27.06.2019 and as per Section 12(1) of the JJ Act, the petitioner is entitled to file an application before the concerned Court. Even according to the learned Additional Public Prosecutor, petitioner is not having any other criminal antecedents.

7. Taking into consideration the above said facts and circumstances of the case, this Court is inclined to grant bail to the petitioner/accused No.1, subject to the following conditions:

(i) The petitioner/accused No.1 shall execute a personal bond for a sum of Rs.50,000/-(Rupees fifty Thousand only) with two sureties for a like sum each to the satisfaction of the I Additional Metropolitan Sessions Judge-cum-Special Judge for Trial of Cases under Protection of Children from Sexual Offences, 2012, Hyderabad.

(ii) After release, the petitioner/accused No.1 shall appear before the concerned Court regularly to prosecute the proceedings.

ii) After release, the petitioner/accused No.1 shall not leave the jurisdiction without permission of the concerned Court.

(iv) After release, if the petitioner/accused No.1 indulges any offence, the respondent-State is entitled to file an application seeking cancellation of the bail granted by this Court in his favour.

(v) The petitioner/accused No.1 shall abide by the conditions stipulated in Section 483 (3) of BNSS.

8. Accordingly, the Criminal Petition is allowed.

Miscellaneous applications, pending if any, shall stand closed.

JUSTICE J.SREENIVAS RAO

Date: 23.06.2025

vsl