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CRR-4004-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 17<sup>th</sup> OF SEPTEMBER, 2024CRIMINAL REVISION No. 4004 of 2024

*JUVENILE IN CONFLICT WITH LAW THROUGH HIS NATURAL  
PARENT AND GUARDIAN*

*Versus**THE STATE OF MADHYA PRADESH*

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Appearance:

Shri Dinker Rao Upadhyay , learned counsel for the petitioner.

Shri Madhusudan Yadav GA for the respondent/State.

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ORDER

1/ This criminal revision under Section 102 of the Juvenile Justice (Care and Protection of Children), Act, 2015 (hereinafter referred to as “ the Act, 2015”) is filed assailing the order dated 29/07/2024 passed by First Additional Sessions Judge, Indore (M.P.) in Cr.A. No.226/2024 whereby the order dated 30/05/2024 passed by Juvenile Justice Board, Indore (M.P.) regarding rejection of bail application moved on behalf of the revision petitioner, was affirmed.

2/ As per the case of prosecution, mother of the victim reported to SHO, Police Station, Tilak Nagar, Indore that child-in-conflict in law had sexually assaulted her daughter aged around 7 years. The Police Station – Tilak Nagar, Indore registered FIR at Crime no. 56/2024 for the offence punishable under sections 376(ab), 506 of IPC and sections 3 /4, 5(m)/6 of POCSO Act against child-in-conflict with law. During investigation, it was found that the accused is aged around 14 years. After completion of investigation, final report was



submitted before the Juvenile Justice Board. Father of child-in-conflict with law submitted application under section 12 of the Act, 2015 before the Juvenile Justice Board, Indore. Juvenile Justice Board, Indore, *vide* order dated 30/05/2024 rejected the application. Feeling aggrieved with the order of Juvenile Justice Board, Indore, an appeal under section 101 of the Act, 2015 was preferred before learned 5<sup>th</sup> ASJ, Indore. The 5<sup>th</sup> ASJ, Indore rejected the appeal *vide* order dated 29/07/2024 passed in Criminal Appeal no. 226/2024. This Criminal Revision under section 102 of the Act, 2015 is filed assailing the impugned orders on following grounds -

- i) The impugned orders have been passed in mechanical way without considering relevant provisions of the Act, 2015
- ii) Revision petitioner, child-in-conflict with law is falsely implicated in the matter.
- iii) Revision petitioner, child-in-conflict with law is a student of Class-9 and can not be deprived of care and protection of family.
- iv) There is no likelihood of absconsion leaving his family and home.
- v) He is ready to abide by all the directions/ conditions as may be deemed fit by this Court.

On these grounds, it is required that the impugned orders being against the spirit of law, deserves to be set-aside. Revision petitioner, child in conflict with law, may be released in custody of his father.

3/ Learned counsel for the revision petitioner, in addition to the grounds mentioned in the revision, contends that the petitioner is a bright student and has recently passed examination for Class-8 while studying at the observation home. Social Investigation report recommends rehabilitation of the child with his family. There is no possibility that he will harm or influence the victim. No criminal antecedent is reported against the revision petitioner or his family members.



There is no material to show that releasing him on bail would bring him in association with any known criminal or will expose him to moral, physical or physiological danger. The father of the child in conflict with law gives assurance that he shall abide by all the conditions for release on bail.

4/ *Per contra*, learned counsel for the State, referring to gravity of alleged offence, requests for rejection of revision petition stating that the Juvenile Justice Board and the First Appellate Court committed no error in rejecting the application for release of child on bail.

5/ Heard learned counsel for the parties and perused the case dairy as well as social investigation report.

6/ Section 12 of the Juvenile Justice Act is provides as under :-

**"12. 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 person's 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.

7/ Thus, it is apparent that Section 12 of the "JJ Act, 2015" mandates that child alleged to be in conflict with law, shall be released on bail under the supervision of Probation Officer or under the care of any fit person except in the circumstances laid down in the proviso to Section 12 of the "JJ Act, 2015", 2015



that If there are reasonable grounds for believing that :

- i) The release is likely to bring him into association of any known criminal; or
- ii) The release is likely to expose him moral, physical or psychological danger; or
- iii) The release would defeat the ends of justice.

8/ Section 3 of JJ Act, 2015 laid down the fundamental principles of care and protection of Children, are as under :

(I) Principle of presumption of innocence, any child shall be presumed to to be an innocent of any mala-fide or criminal intent up to the age of of eighteen years.

(ii) Principle of dignity and worth: All human being shall be treated with equal dignity and rights.

(iii) Principle of best interest. All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(iv) Principle of family responsibility : The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may;

(v) Principle of non stigmatizing sometimes adversarial or accusatory words are not to be used in the process pertaining to a child.

(vi) Principle of right to privacy and confidentiality. Every child shall have a right to protection of his privacy and confidentiality, by all means and through out the judicial process.

9/ Thus, all the decisions referring the child need to be based on consideration that they are in best interest of child and to help the child to develop full potential. The main object of the Act is to treat the juvenile offender with utmost care and caution. The gravity of offence should not be taken into consideration while considering his application for grant of bail.

10/ The Juvenile Justice Board vide order dated 30/05/2024 rejected the application. The learned Appellate Court also referred to social investigation report and affirmed findings of the Juvenile Justice Board for the reason that the



child in conflict with law suffers from anger . He will come in contact with the victim. It may cause danger to his mental growth.

11/ The social investigation report dated 02/09/2024 submitted by the Probation Officer states that father of the child in conflict with law is a labourer and he earns Rs.15,000/- per month and his mother works as cook and earns Rs. 5000/- per month. Therefore, he is capable of looking after the welfare and education of his son. The child in conflict with law is studying in Class-9. The neighbours have stated that behavior of the child in conflict with law is gentle. His conduct and performance at observation home was found to be appropriate, therefore, his rehabilitation with family is recommended.

12/ The Juvenile Justice Board and learned Appellate Court failed to appreciate that the social investigation report does not state that the release of child in conflict with law would bring bring him association of any known criminal or expose him to moral, physical or psychological danger. No inference can be drawn with regard to incapacity of the family members merely because they belong to weaker economic strata of the society. The child in conflict with law can not be deprived of care and protection of family for their economic status.

13/ It goes to show that none of the parameters for refusal of rehabilitation of child in conflict with law with his family is made out. Thus, the impugned order suffers from illegality and impropriety. Consequently, criminal revision is allowed and the impugned order of the Appellate Court is set-aside. It is hereby ordered that child in conflict with law, who is in observation home, Indore (M.P.) since 25/02/2024 be released on bail and given to custody to his father on furnishing personal bond of Rs. 50,000/- (Rs. Fifty thousand Only) and solvent surety of the like amount by the father to the satisfaction of the Juvenile Justice



Board, Indore (M.P.), subject to following conditions :-

- (i) That, child in conflict with law will not be permitted to go into contact or association with any known criminal or allowed to be exposed to any moral, physical, or physiological danger by coming into association of persons having criminal background.
- (ii) That, the child in conflict with law will not repeat the offence or get involved in any criminal activity.
- (iii) That, the child in conflict with law will pursue his study at the appropriate level and be provided vocational training.
- (iv) The child in conflict with law will not try to come in contact with victim of alleged offence and he will be kept away from the vicinity of the victim.
- (v) The father shall produce the child in conflict with law before the concerned Probation Officer every fortnight and apprise him about compliance with aforementioned conditions.
- (vi) The Probation Officer will keep strict vigil on the activities of child in conflict with law and shall regularly submit social investigation report to the Juvenile Justice Board, Indore (MP) every month.

Certified copy as per rules.

(SANJEEV S KALGAONKAR)  
JUDGE

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