



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. _____ OF 2024
(Arising out of Special Leave Petition (Crl.) No.9566/2024)

JUVENILE IN CONFLICT WITH LAW V

Appellant(s)

VERSUS

THE STATE OF RAJASTHAN & ANR.

Respondent(s)

O R D E R

1. Leave granted.
2. Heard learned counsel appearing for the appellant and learned counsel appearing for the respondents.
3. The present appeal has been preferred by Juvenile in convict with law through his guardian - father. First Information Report was registered against him for offences punishable under Sections 354 and 506 of the Indian Penal Code, 1860 and Sections 9 and 10 of Protection of Children from Sexual Offences Act, 2012 (POCSO).
4. On 15th August, 2023, the appellant was taken into custody and was sent to Juvenile Care Home. The charge-sheet was filed on 25th August, 2023. Two days before filing of the charge-sheet, an application made by the appellant under Section 12(1) of the Juvenile Justice (Care and Protection of

Children) Act, 2015 (for short, 'the JJ Act') was rejected. The second application for bail was rejected on 11th December, 2023 by the JJ Board. An appeal against the said order was dismissed by the learned Special Judge under POCSO Act and ultimately by the impugned order, the High Court dismissed the Revision Petition filed by the appellant and denied bail.

5. In the entire process, the appellant has completed one year of custody. Section 12 of the JJ Act reads thus:

"Section 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 available 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."

6. From the phraseology used in sub-section 1 of Section 12, a juvenile in conflict with law has to be necessarily released on bail with or without surety or placed under supervision of a probation officer or under the care of any fit person unless proviso is applicable.

7. We have perused all the orders passed earlier by the JJ Board, Special Court and High Court and specially the order dated 11th December, 2023 passed by the JJ Board. There is no finding recorded that the proviso to sub-Section 1 of Section 12 is applicable to the facts of the case. Without recording the said finding, bail could not have been denied to juvenile in conflict with law.

8. Our attention is invited to Psychological Assessment Report of the Juvenile. The report records that the juvenile does not belong to high risk category and against the column "worry list of child" it is mentioned that there was "no worry". The report is signed by a qualified Clinical Psychologist.

9. Though none of the courts at no stage have recorded a

finding that in the facts of the case, the proviso to sub-Section 1 of Section 12 was applicable, the juvenile in conflict with law has been denied bail for last one year.

10. Hence, the impugned orders are set aside. The appeal is accordingly allowed.

11. We direct that the juvenile in conflict with law shall be released on bail without surety. However, the jurisdictional Juvenile Justice Board shall issue appropriate directions to the jurisdictional Probation Officer to keep the juvenile under supervision and to submit periodical reports to the Board about the conduct of the Juvenile.

12. Pending application(s), if any, shall stand disposed of.

.....J.
(ABHAY S.OKA)

New Delhi;
August 14, 2024.

.....J.
(AUGUSTINE GEORGE MASIH)

ITEM NO.4

COURT NO.6

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (Crl.) No.9566/2024

(Arising out of impugned final judgment and order dated 27-05-2024 in SBCRSRP No. 793/2024 passed by the High Court Of Judicature For Rajasthan At Jaipur)

JUVENILE IN CONFLICT WITH LAW V

Petitioner(s)

VERSUS

THE STATE OF RAJASTHAN & ANR.

Respondent(s)

([Ms. Nidhi Jaswal, Advocate, Standing counsel for the State of Rajasthan]

(IA No. 158866/2024 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 14-08-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s) Mr. Abhishek Gupta, AOR
Mr. Deepak Chauhan, Adv.
Mr. Praful Shukla, Adv.

For Respondent(s) Mr. Shiv Mangal Sharma, AAG
Mr. Prateek Ahuja, Adv.
Ms. Nidhi Jaswal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

The operative portion of the signed order is as under:

'The impugned orders are set aside. The appeal is accordingly allowed.

We direct that the juvenile in conflict with law shall be released on bail without surety. However, the jurisdictional Juvenile Justice Board shall issue appropriate directions to the jurisdictional Probation Officer to keep the juvenile under supervision and to submit periodical reports to the Board about the conduct of the Juvenile."

Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)

[Signed order is placed on the file]