

**THE HIGH COURT OF MADHYA PRADESH****Cr.R. No.1121/2020***(Rahul Parihar Vs. State of M.P. & another)*

---

**Gwalior, Dated:-22/05/2020**

Shri P.S. Bhadouriya, learned counsel for the petitioner.

Shri Ramendra Singh Gurjar, learned Panel Lawyer for the respondent/State.

Matter is heard through video conferencing.

This revision petition under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for brevity, the 'Act of 2015') is directed against the order dated 30/01/2020 passed in Criminal Appeal No.10/2020, by the Third Additional Sessions Judge, Bhind (M.P.), whereby he has confirmed the order dated 06/01/2020 passed by the Principal Judge, Juvenile Justice Board, Bhind (MP) rejecting the application of the petitioner-accused seeking his release on bail under Section 12 of the Act of 2015.

It is submitted by learned counsel for the petitioner that present petitioner is around 17 years of age and the age of the prosecutrix is 15 years. The date of incident as per prosecution story is 16/10/2019. The petitioner is in custody since 22/10/2019. There is no corroborative medical evidence and no injury was found on the private part of the victim. It is further submitted that investigation is completed and charge-sheet has been filed. On perusal of statement given under Section 164 of Cr.P.C. it is apparent that this is the case of consent as the prosecutrix herself went along with present petitioner

**THE HIGH COURT OF MADHYA PRADESH****Cr.R. No.1121/2020***(Rahul Parihar Vs. State of M.P. & another)*

---

and resided with him at Gwalior. Thereafter, they returned back to the Gohad, district Bhind. It is further submitted that false case has been registered against the present petitioner. Hence prayed to grant bail to the petitioner.

On the other hand, learned State counsel has opposed the same and has submitted that on the date of incident the petitioner was 17 years 11 months and 10 days of age. As per amendment incorporated in the year 2015, the age between 16-18 is to be considered with the facts and circumstances of the case. It is further submitted that no illegality or perversity appears to have been committed by the courts below in rejecting the prayer of the petitioner, considering the nature of crime committed by him. Therefore, the impugned order passed by the appellate court cannot be termed as illegal or against the material on record. Hence, according to him, revision is liable to be dismissed.

Considered the contentions raised by both the sides and also perused the documents available along with provisions of law applicable to the case.

The Supreme Court by order dated 23-3-2020 passed in the case of **IN RE : CONTAGION OF COVID 19 VIRUS IN PRISONS** in **SUO MOTU W.P. (C) No. 1/2020** has directed all the States to constitute a High Level Committee to consider the release of prisoners in order to decongest the prisons. The Supreme Court has observed as

**THE HIGH COURT OF MADHYA PRADESH****Cr.R. No.1121/2020***(Rahul Parihar Vs. State of M.P. & another)*

---

under :

“The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of Corona Virus (COVID – 19).

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled.

We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have been convicted or are under trial for offences for which prescribed punishment is up to 7 years or less, with or without fine and the prisoner has been convicted for a lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.”

The provision contained in Section 12 of the Act of 2015 lays down that if a juvenile accused is arrested or detained or appears or is brought before a Board, such person shall not be released if there appears reasonable grounds for believing that the release is likely to

**THE HIGH COURT OF MADHYA PRADESH****Cr.R. No.1121/2020***(Rahul Parihar Vs. State of M.P. & another)*

---

bring him into association with any known criminal or expose him to moral, physical or psychological danger or that this release would defeat the ends of justice. Thus, every juvenile for whatsoever offence he is charged with, shall be released on bail except under the above circumstances. Of course, the bail application of juvenile can be refused, if the above grounds or any one of the grounds exists. Thus, the exception would be that he shall not be so released if there appears reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that would defeat the ends of justice.

The application for bail has been rejected by the Board and on appeal by the learned Additional Sessions Judge on the ground of seriousness of the crime. Furthermore, on perusal of the orders passed by the two courts, it appears that there existed exception mentioned in the section for believing that the release of the delinquent juvenile would defeat the ends of justice. However, it cannot be lost sight off the fact that the said provision is indicative of the intent of the Legislature that a juvenile offender should not be kept in custody normally except in the circumstances narrated in Section 18 of the Act. The record also suggested that the petitioner is not having any criminal background and his tendency is not to indulge in crime and

**THE HIGH COURT OF MADHYA PRADESH****Cr.R. No.1121/2020***(Rahul Parihar Vs. State of M.P. & another)*

---

his release would not defeat the ends of justice. Under these circumstances, refusal of bail would be against the intention of the Act.

Therefore, taking into consideration all these facts, in the opinion of this court, ends of justice would be served if the petitioner through his guardian is directed to move afresh for bail before the Juvenile Board and if such an application is moved, he shall be released on bail on furnishing a personal bond of his parents in the sum of **Rs.1,00,000/- (Rs. One Lac only)** with one solvent surety in the like amount to the satisfaction of the Juvenile Court subject to the condition that the parents of the juvenile shall keep watch over him during the period of his release and keep him present on each and every dates of hearing before the Board and shall not allow their child to bring into association with any known/unknown criminals and further ensure that his release shall not defeat the ends of justice, in any manner. It is further directed that the Probation Officer shall periodically keep vigilance over the delinquent juvenile and observe his activities and in the event of any adversity noticed by him he shall cause arrest for him. Eventually, the order granting bail to the petitioner shall stand automatically cancelled.

**THE HIGH COURT OF MADHYA PRADESH****Cr.R. No.1121/2020***(Rahul Parihar Vs. State of M.P. & another)*

---

In view of what has been stated above, the revision stands allowed in the manner indicated above, setting aside thereby the orders impugned herein.

**E- copy** of this order be sent to the trial Court concerned for compliance, if possible for the office of this Court.

Certified copy/ e-copy as per rules/directions.

(Rajeev Kumar Shrivastava)  
Judge

*Shubhankar\**