

## Harsh Bhavi vs State Of Rajasthan Through Pp on 9 May, 2018

HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR

S.B. Criminal Revision No. 437/2018

Harsh Bhavi S/o Deepak By Caste Gurjar, Resident Of Dineshpur  
Police Station Mawana District Merath (Uttar Pradesh) At Present  
Resident Of 3/128 Rhb, Bhiwadi District Alwar (Rajasthan)  
Through His Grand Father Kanwar Singh {In Custody At Juvenile  
Protection Home Alwar, (Jail) }

----Petitioner

Versus

State Of Rajasthan Through P.p.

----Respondent

For Petitioner(s) : Mr. Ravindra Kumar Paliwal  
For Respondent(s) : Mr. V.S. Godara, PP

HON'BLE MR. JUSTICE DEEPAK MAHESHWARI

Reportable

Order

09/05/2018

Heard learned counsel for the accused-petitioner as

also learned Public Prosecutor.

This revision petition is directed against the order dated 14.02.2018 passed by learned Sessions Judge, Alwar whereby the appeal preferred by the petitioner Harsh Mavi has been rejected and the order passed by learned Juvenile Board, Alwar dated 06.02.2018 has been upheld whereby the bail application filed on behalf of petitioner under Section 12 of the Juvenile Justice (Care and Protection of Children) Act 2015 which has been rejected.

Counsel for the accused-petitioner submits that there was no role of the petitioner in the offence under Sections 364, 364A 365, 302 and 120B IPC. Co-accused Deepak and Akash were main culprits in the matter. No recovery has been effected from (2 of 3) [CRLR-437/2018] petitioner. Hence the revision may kindly be allowed and the petitioner be enlarged on bail.

Per contra, learned Public Prosecutor has opposed the prayer stating that petitioner Harsh was also instrumental in hatching a conspiracy with co-accused in kidnapping the 16 years old boy Yash for the purpose of demand of ransom of Rs. 14 lakhs from his parents.

On perusal of the record it appears that the age of petitioner was around 17 years on the date of occurrence. He was just about to reach the age of majority. It further needs to be observed that the victim of the offence of kidnapping and murder was also a child of the age of 16 years. As per the definition of child given in the Act of 2015, the welfare of the victim namely Yash was also to be protected as per the true spirit of the Act of 2015. The Act aims at securing justice not only to the author of the crime but to the victim of the crime also and society at large too.

Protection granted under Section 12 of the Juvenile Justice (Care and Protection of Children) Act 2015 is claimed on behalf of juveniles who are in conflict with law. But at the same time the child who is in need of care and protection, his interest is also to be watched by the Courts. Further, Section 12 also speaks that the juvenile shall not be released if it appears that his release would defeat the ends of justice. If viewed from this angle, it appears that if in the case in hand bail is granted to the petitioner then it will be a gross injustice qua the child who had been victim of the offence and the society at large also. By showing misplaced sympathy to the petitioner who has perpetrated the offence of kidnapping and then murder, the victim (3 of 3) [CRLR-437/2018] and the society will be denied justice which is not the intention of the Act of 2015.

In view of above the orders dated 14.02.2018 and 06.02.2018 passed by the courts below do not appear to suffer from any infirmity or illegality for which any interference is called for by this Court in its revisional jurisdiction.

In view of above the revision petition is dismissed.

(DEEPAK MAHESHWARI),J JKP/M-39