

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 355/2020

Pankaj S/o Lt. Sh. Lalshankar Meena, Aged About 17 Years, R/o Bilakh Kikawat, P.s. Rishabdev, Through His Natural Guardian Uncle Ramesh S/o Sh. Dhanji Meena, R/o Bilakh Kikawat, P.s. Rishabdev, Dist. Udaipur (Raj.). (Presently Lodged In Juvenile Observation Home, Udaipur).

-----Petitioner

Versus

State, Through PP

-----Respondent

For Petitioner(s)	:	Mr. Bharat Shrimali, through Jitsi Meet App
For Respondent(s)	:	Mr. Laxman Solanki, PP

**JUSTICE DINESH MEHTA
Judgment****Reportable****22/05/2020**

1. Petitioner has preferred present revision petition under Section 102 of Juvenile Justice Act, 2015 (hereinafter referred to as 'JJ Act') challenging order dated 17.2.2020, passed by the learned Special Judge (POCSO Act, 2012 and Child Right Protection Act, 2005) No.1, Udaipur (hereinafter referred to as 'the appellate court') in Cr. Appeal No.8/2020 rejecting the appeal preferred by the petitioner against order dated 10.2.2020 passed by Principal Magistrate, Juvenile Justice Board, Udaipur (hereinafter referred to as 'JJ Board' or 'the Board') in connection with FIR No.331/2019, Police Station Rishabhdev, whereby bail application filed by the petitioner under Section 12 of the JJ Act has been rejected.

2. Before delving upon the questions involved and raised, it will be apt to lay factual canvass, which unfolds thus:

2.1 One Swapnil Kalal filed an FIR on 12.10.2019, intimating that two young boys intercepted him when he reached Darshan Ghati on his motorcycle and snatched away his bag containing Rs.62,460/- and some important documents.

2.2 During investigation, the police identified the present petitioner as one of the accused and apprehended to try him for the offence under Section 392/34 of Indian Penal Code.

2.3 Considering that petitioner was 17 years of age – a juvenile, he was ordered to be sent to Rehabilitation Center on 30.1.2020.

2.4 A bail application was filed on petitioner's behalf by his uncle, which came to be rejected by the JJ Board, vide its order dated 10.2.2020.

2.5 The petitioner preferred an appeal against the above order dated 10.2.2020, which too was rejected by the appellate Court.

2.6 The petitioner (through his guardian) has preferred the present revision petition seeking quashment of above referred orders passed by the Board and appellate Court while also praying that he be released on bail.

3. Questioning the legality and propriety of the above referred orders, learned counsel for the petitioner argued that the offences alleged against the petitioner (Section 392/34 of the IPC) are triable by magistrate and thus, the Juvenile Justice Board ought to have enlarged the petitioner on bail considering that he was behind bars for considerable period. He argued that despite being a juvenile, the petitioner is languishing in judicial custody

for not so serious offence. Showing concern about petitioner's predicament, he added that had he been a major, he would have been released on bail by this time.

4. Concluding his submissions, while informing that charge-sheet/final report has not been filed so far, he asserted that petitioner is entitled to be enlarged on bail, as the statutory period for filing charge-sheet has since passed.

5. Learned Public Prosecutor opposed the bail application and argued that as per Section 12 of JJ Act, the Board is not required to mechanically release a juvenile or grant him bail as a matter of course, merely because the accused before it is a juvenile.

6. He pointed out that two more cases of similar nature are pending against the petitioner and the Board as well as the appellate Court has recorded a finding that if the petitioner is released, he will again go in the same company and is likely to commit offences of similar nature. He, thus submitted that in the facts of the present case, it is expedient and in the interest of juvenile that he be kept in the Observation Home itself.

7. Responding to the argument about petitioner's right to be released on account of prosecution's failure to file final report, learned Public Prosecutor gave an excuse that the charge-sheet could not be filed in the wake of lock down. He heavily relied upon order dated 23.3.2020 passed by Hon'ble the Supreme Court in *Suo Motu Writ Petition (Civil) No.3/2020*, whereby period of limitation came to be extended considering the situation of overall lock down. He emphasized that till lock down continues, the period prescribed in the provisions of Section 167(2) of Code of Criminal Procedure (for short 'the Code') stands automatically extended per force such order passed by Hon'ble the Supreme

Court, as it has the effect of binding law by virtue of Article 141/142 of the Constitution of India.

8. Heard.

9. So far as correctness of the orders impugned on their merit is concerned, there is no reason or material to interfere with the finding recorded by the Board and affirmed by the appellate Court, holding that if the present petitioner – a child in conflict with law is released, there is every likelihood that he will mingle in the company of violators of law and prodded or prompted to commit similar offences.

10. As per the scheme of the JJ Act, more particularly Section 12 thereof, a child in conflict with law is to be given benefit of bail. Such benefit can be denied only upon recording a finding that there appears reasonable belief that such release is likely to bring the person into association of any known criminal or expose him to more physical or psychological danger.

11. There is no gainsaying the fact that two more cases of like nature are pending against him. Considering the nature of allegation against the petitioner, the Board and appellate Court were justified in concluding that if he is handed over to the guardian or released on bail, he is likely to go in company or in association of known criminals and the same would expose him to crimes of like nature.

12. Having upheld the orders under challenge on their merits, I proceed to deal with the argument based on failure to file charge-sheet and corresponding defence taken by the State-Prosecution.

13. Before moving on to this argument, it is pertinent to note that this argument was neither raised before the courts below nor had the occasion to raise such plea arisen. Because, the period of 60 days from petitioner's arrest was over on 31st March, much after

the Board and even the appellate Court passed the impugned order.

14. It is more or less trite that in case charge-sheet is not filed within 60 days or 90 days, as the case may be, an accused is entitled for bail by virtue of first proviso to sub-section (2) of Section 167 the Code. Various High Courts and the Apex Court have time and again reverberated that such right is an indefeasible and crystallized right of an accused.

15. The prosecution has taken a stance that as a result of the order passed by Hon'ble the Supreme Court on 23.3.2020, the clock of limitation has stopped ticking. In order to examine the strength of such plea, it will be profitable to reproduce the order dated 23.3.202, passed by Hon'ble the Supreme Court in *Suo Motu Writ Petition No.2/2020*, here in extenso:

"This Court has taken *Suo Motu* cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State).

To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.

We are exercising this power under Article 142 read with Article 141 of the Constitution of India and declare that this order is a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

This order may be brought to the notice of all High Courts for being communicated to all subordinate Courts/Tribunals within their respective jurisdiction.

Issue notice to all the Registrars General of the High Courts, returnable in four weeks.”

16. Another order (dated 6.5.2020) passed by Hon’ble the Supreme Court in the said case also has a bearing on the issue at hands, hence, the same is being reproduced hereunder:

“In view of this Court’s earlier order dated 23.03.2020 passed in Suo Motu Writ Petition (Civil) No.3/2020 and taking into consideration the effect of the Corona Virus (COVID 19) and resultant difficulties being faced by the lawyers and litigants and with a view to obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunal across the country including this Court, it is hereby ordered that all periods of limitation prescribed under the Arbitration and Conciliation Act, 1996 and under section 138 of the Negotiable Instruments Act 1881 shall be extended with effect from 15.03.2020 till further orders to be passed by this Court in the present proceedings.

In case the limitation has expired after 15.03.2020 then the period from 15.03.2020 till the date on which the lockdown is lifted in the jurisdictional area where the dispute lies or where the cause of action arises shall be extended for a period of 15 days after the lifting of lockdown.

In view of the above, the instant interlocutory application is disposed of.”

17. In order to have a better conspectus of the law, vis-a-vis the order dated 23.3.2020, it is considered necessary to have provisions of Section 167 of the Code handy; the same is thus, being reproduced hereinbelow:

“167. Procedure when investigation cannot be completed in twenty-four hours-

(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by Section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the Accused to such Magistrate.

(2) The Magistrate to whom an Accused person is forwarded under this Section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the Accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the Accused to be forwarded to a Magistrate having such jurisdiction:

Provided that,--

(a) the Magistrate may authorise the detention of the Accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the Accused person in custody under this paragraph for a total period exceeding,--

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence,

*and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the Accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this Sub-section shall be deemed to be so released under the provisions of Chapter XXXIII for the purposes of that Chapter;

*(emphasis supplied)

(b) no Magistrate shall authorise detention of the Accused in custody of the police under this Section unless the Accused is produced before him in person for the first time and subsequently every time till the Accused remains in the custody of the police, but the Magistrate may extend further detention in judicial custody on production of the Accused either in person or through the medium of electronic video linkage;

(c) no Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police.

Explanation I.-For the avoidance of doubts, it is hereby declared that, notwithstanding the expiry of the period specified in paragraph (a), the Accused shall be detained in custody so long as he does not furnish bail.

Explanation II.-If any question arises whether an Accused person was produced before the Magistrate as required under Clause (b), the production of the Accused person may be proved by his signature on the order authorising

detention or by the order certified by the Magistrate as to production of the Accused person through the medium of electronic video linkage, as the case may be:

Provided further that in case of a woman under eighteen years of age, the detention shall be authorised to be in the custody of a remand home or recognised social institution.

XXXXX

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XXXX”

18. A simple reading of Section 167 of the Code makes it abundantly clear that it does not provide any outer time limit within which the investigation is required to be completed. In other words, Section 167 of the Code is not a provision containing limitation for filing a final report; it is, rather a provision, which prescribes the consequence or effect of failure of an investigating officer to complete the investigation within the specified period. Failure to adhere to the timeline contained in Section 167 of the Code does not result in automatic acquittal, but it gives rise to a right to an accused to be released on bail.

19. Section 167 the Code, indubitably puts an embargo on the powers of a Magistrate to extend or authorise detention of an accused person beyond a period of 60 days or 90 days, as the case may be. The police or investigating agency can carry on with the investigation at their own pace, as deemed appropriate or necessary. But, in such eventuality, when they fail to complete the investigation within the given time frame, provisions contained in Section 167(2) of the Code in no ambiguous terms announce that an accused person, be released on bail, if he is prepared to furnish bail.

20. If put differently, sub-section (2) of Section 167 of Cr.P.C. does not per se bar filing of final report after expiry of the period given in clause (i) or (ii) of the first proviso. As a matter of fact, in the event of failure to furnish the final report within the period

of 60 days or 90 days from arrest/detention, the Magistrate is divested or denuded of his power to permit detention of the accused person beyond such period. Underlying intention or idea behind this provision, according to this Court, is that an accused cannot be kept in police or judicial custody merely under the guise of or pretext of pending investigation.

21. In the light of various authoritative pronouncement of Hon'ble Supreme Court, an accused gets an inviolable and indefeasible right to be released on bail in the event of an investigation not being complete and on failure of the prosecution to file final report within the time prescribed. Hence, an accused/detenu has to be released, subject atleast to his willingness to furnish the bail as deemed appropriate.

22. It is pertinent to note that similar plea was raised before **Madras High Court in Cr. OP (MD) No.5291/2020: Settu Vs. State**. Madras High Court on 8.5.2020, while taking note of the orders passed by Hon'ble the Supreme Court in Suo Moto Writ Petition (Civil) No.3/2020 and other relevant laws held as under :

"14. Personal liberty is too precious a fundamental right. Article 21 states that no person shall be deprived of his personal liberty except according to procedure established by law. So long as the language of Section 167(2) of Cr.PC remains as it is, I have to necessarily hold that denial of compulsive bail to the petitioner herein will definitely amount to violation of his fundamental right under Article 21 of the Constitution of India. The noble object of the Hon'ble Supreme Court's direction is to ensure that no litigant is deprived of his valuable rights. But, if I accept the plea of the respondent police, the direction of the Hon'ble Supreme Court which is intended to save and preserve rights would result in taking away the valuable right that had accrued to the accused herein.

15.Of course, the construction placed by me will have no application whatsoever in the case of certain offences under certain special laws, such as Unlawful Activities (Prevention) Act, 1967 and NDPS Act, 1985. For instance Section 36-A (4) of the NDPS Act enables the investigation officer to apply to the special court for extending the period mentioned in the

statute from 180 days to 1 year if it is not possible to complete the investigation. Thus, under certain statutes, the prosecution has a right to apply for extension of time. In those cases, the benefit of the direction of the Hon'ble Supreme Court made 23.03.2020 in Suo Motu Writ Petition (Civil) No.3 of 2020 will apply. But, in respect of the other offences for which Section 167 of Cr.Pc is applicable, the benefit of the said direction cannot be availed."

23. Almost similar came the case before Kerala High Court, where an FIR under the provisions of Sections 345B, 376(2)(f)(n), 376(3) of IPC and Section 4(2) read with Section 3(a), (b), 6, 5(j), (ii), 5(n), 8 read with Section 7, 10, read with Section 9(l)(n) of Protection of Children from Sexual Offences Act, 2012 and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 was lodged; the juvenile was arrested on 17.1.2020 and was remanded to judicial custody. Since the investigating agency could not file the final report within the stipulated period of 90 days due to pandemic lock-down, said juvenile preferred an application invoking the provisions of Section 167(2) of the Code seeking "default bail". In **Bail Appl. No.2856/2020: Mohd. Ali Vs. State of Kerala, decided on 20.5.2020**, considering Section 167 and Section 57 of the Code and of course the orders of Hon'ble Supreme Court, Kerala High Court held thus:

"10. Now the question is whether the period for submitting the final report can be taken to be extended as contended by the learned Public Prosecutor. The said contention is based on the order passed by the Supreme Court in Suo Motu Writ Petition (C) No.3/2020 whereby, the period of limitation in all proceedings in respective courts/Tribunals across the country including the Supreme Court under the general law or Special Laws were extended until further order. A reading of the order would show that those directions were issued to obviate difficulties faced by the litigants, lawyer due to the situation arising out of the pandemic. Those directions are applicable to petitions/applications/suits/appeals and other proceedings wherein a period of limitation is prescribed under the general law of Limitation or under Special Laws. Section 2(j) of the Limitation Act, 1963 defines 'period of limitation' as the period of limitation prescribed for any suit, appeal or application by the Schedule, and "prescribed period" means the period of limitation computed in accordance with the provisions of this Act. Section 3 of Act

36 of 1963 provides for limitation of suits, appeals and applications and Section 5 provides for extension of prescribed period in certain cases. Section 29(2) of Act 36 of 1963 provides that where any special or local law prescribes for any suit, appeal or application, a period of limitation different from the period prescribed in the Schedule, the provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule. In this context, if Section 167 of the Cr.P.C. is analysed, it is luculent that the said provision does not provide any outer limit for the period of completion of investigation. It only interdicts the Magistrate from authorising detention of the accused person other than in the custody of the police for the statutory period. However, the police can continue with the investigation and take their own sweet time to conclude the same and file a final report. This provision is unlike Section 468 of the Cr.P.C., which provides for limitations for taking cognizance of certain offences. If the submission of the learned Public Prosecutor is accepted, the very same contention can be taken by the investigating agency and they can very well contend that they can detain the accused in custody for more than 24 hours which would clearly be violative of Article 22(2) of the Constitution and Section 57 of the Cr.P.C. They can also demand that they are entitled to get police custody even beyond the period of 15 days from the first remand. This will result in serious deprivation of the rights of the accused and most certainly will be misused in certain cases.

11. In **Achpal** (supra), the Supreme Court was confronted with the issue as to whether the High Court could have extended the period prescribed under Section 167 of the Cr.P.C. It was held thus under paragraph No.20 of the report.

"20. We now turn to the subsidiary issue, namely, whether the High Court could have extended the period. The provisions of the Code do not empower anyone to extend the period within which the investigation must be completed nor does it admit of any such eventuality. There are enactments such as the Terrorist and Disruptive Activities (Prevention) Act, 1985 and Maharashtra Control of Organised Crime Act, 1999 which clearly contemplate extension of period and to that extent those enactments have modified the provisions of the Code including Section 167. In the absence of any such similar provision empowering the Court to extend the period, no Court could either directly or indirectly extend such period. In any event of the matter all that the High Court had recorded in its order dated 03.07.2018 was the submission that the investigation would be completed within two months by a Gazetted Police Officer. The order does not indicate that it was brought to the notice of the High Court that the period for completing the investigation was coming to an end. Mere recording of submission of the Public Prosecutor could not be taken to be an order granting extension. We thus reject the submissions in that

behalf advanced by the learned Counsel for the State and the complainant.” (emphasis supplied)

12. What has been emphatically stated is that the provisions of the Code do not empower anyone to extend the period within which investigation must be completed. If on the expiry of the period mentioned the final report is not laid, the right of the accused gets crystallised and if the accused expresses his willingness to be admitted to the benefit of bail and prefers appropriate application, he has to be granted default bail. Right of personal liberty is not only a legal right but it is a human right which is inherent in every citizen of any civilized society. Article 21 only recognizes this right. Section 57 and 167 are the provisions in the Code which provides for procedure established by law which curtails this right. Such provisions which provide for the procedure to keep an accused under prolonged incarceration will have to be interpreted keeping in mind the constitutional rights of the accused.”

24. Uttarakhand High Court also followed the suit and released the applicant therein, giving him benefit of default bail on the prosecution’s failure to file final report within the period prescribed under Section 167(2) of the Code. State’s claim that period stood extended by virtue of order of Apex Court has been repelled. **(Re. First Bail Application No.511/2020 : Vivek Sharma Vs. State of Uttarakhand, decided on 12.5.2020).**

25. While wading through the law on the subject, I came across a divergent view taken by another single Bench of Madras High Court vide **order dated 11.5.2020 [Cr. OP (MD) No.5296/2020 : S. Kasi Vs. State]**. In the said order, single Bench of Madras High Court after noticing the judgment dated 8.5.2020 in Settu’s case, has taken the view that in the currency of lock down, the time limit of completing investigation prescribed under Section 167(2) of the Code stands extended, per force order of the Apex Court dated 23.3.2020.

26. It is immensely useful to consider the opposite view also, before reaching a final conclusion, so that we are persuaded to revise our view, or are prompted to sure up or strengthen the

limbs on which our opinion is premised. I therefore, deem it expedient to reproduce relevant extract of the judgment dated 11.5.2020 of Madras High Court, so that the issue can be threshed out from all possible perspectives and prospects.

“13. The lockdown announced by the Government is akin to proclamation of emergency. Under Article 352 of the Constitution, in case of external aggression National Emergency can be proclaimed by the President. Presently we face aggression not by human agencies, but by micro-organisms. Like wise when the nation face threat to the credit or financial stability under Article 360 Financial emergency can be declared. If emergency is declared, under Article 358 the rights under Article 19 gets suspended. The right to live guaranteed under Article 21 is subject restriction. Presently, though the state is not passing through emergency duly proclaimed, whole nation has accepted the restrictions for well being of mankind. At this juncture, myopic reading of Section 167 of Cr.P.C conveniently ignoring the spirit behind the order by the Apex Court invoking its power under Article 142 of the constitution will amount to judicial indiscipline.

14. The spirit behind the order of the Apex Court is to do complete justice. Conscious to the fact that there are several legislations prescribing limitation, the Honourable Supreme Court has generally stated the period of limitation prescribed under general law of limitation or under special laws shall be extended until further order. Therefore it is needless to mention that the limitation under Section 167 for investigation also get extended.

15. The learned counsel for the petitioner relying upon the order passed by this Court in ***Crl.O.P(MD) No. 5291 of 2020*** in ***Settu -vs- The State rep. by the Inspector of Police, Vallam Police Station, Thanjavur District***, dated 08.05.2020 insisted that the extension of period envisaged in the Apex court order will not apply to Section 167 Cr.P.C.

16. This Court had the privilege of reading the said order. It is hight of ignorance to expect the investigation agency to complete the investigation and file final report in the Court within time prescribed after closing down the gates and prohibiting the access. After imposing restrictions on their movements and chiding them, “executive must exhibit nimble footwork and not hide behind judicial order. Only little children hide behind the saree end (paalu) of their mothers” is uncharitable.

17. The learned judge has mis-interpreted the Apex Court Order dated 23/03/2020. The clarification order dated 06/05/2020 no way dilute or restrict the scope and extend of the earlier order. Since the order relied by the learned counsel for the petitioner is contrary to the spirit of the

Honourable Supreme Court order issued in exercise to the power of Article 142 it is non-est and has no binding force.”

27. Having regard to the background in which the Hon’ble Supreme Court has passed the subject order dated 23.3.2020 and in light of what has been recorded therein, it is clear that the same was passed with a view to give relief to the litigants and lawyers. Hon'ble the Supreme Court has extended the period of limitation for filing petition, appeal, revision etc. - and no such advantage of extension of period has been given to any investigating agency or statutory body.

28. In absence of any clear stipulation in the above referred order of Hon'ble Supreme Court, in my considered opinion, the investigating or prosecuting agency cannot claim self-serving extension, under the pretence or cloak of such order.

29. If that be permitted, statutory period of completing assessments etc. in all statutes such as Income Tax Act, GST Act etc. will stand automatically extended, which, in absence of express statutory amendments is impermissible.

30. Keeping that in mind, the government has come out with the taxation and other laws (Relaxation of Certain Provision) Ordinance, 2020. By virtue of the provisions contained in this Ordinance, the limitation or outer limit for compliance or actions/orders under various enactments has been extended. Concededly, no amendment has been introduced in the Code, particularly in Section 167(2).

31. In absence of any amendment in the statute and without there being any remote reference of investigation or provisions of the Code in the order of Supreme Court, taking shield of the Supreme Court’s order to take away the vested right of an accused, is nothing short of violating his right of liberty guaranteed under Article 21 of the Constitution.

32. Needless to observe that consequent to lock down, the work of investigating authority and police was not stalled. Nor it is the case of the State/Prosecution that the Board or competent Court having jurisdiction were not functioning to accept/admit charge-sheet, when sought to be filed.

33. As the felony for which the petitioner is to be tried, prescribes less than 10 years' sentence, the investigating officer was required to file final report or charge-sheet within 60 days, i.e., latest by 30th March, 2020. The same has not been filed even till today. The petitioner is, thus, justified in asserting his right to be released on bail, by offering requisite bail bonds.

34. In the process of reaching the above conclusion, following judgments of Hon'ble the Supreme Court have guided me; wherein provisions of Section 167 the Code have been interpreted and concept of default bail has not only been recognized or accepted, but has been held to be an indefeasible right of an accused, in case charge-sheet is not filed within prescribed time:-

- (i) CBI Vs. Anupam J. Kulkarni (1992) 3 SCC 141**
- (ii) Hitendra Vishnu Thakur Vs. State of Maharashtra (1994) 4 SCC 602**
- (iii) Sanjay Dutt Vs. State (1994) 5 SCC 410**
- (iv) Bipin Shantilal Panchal Vs. State of Gujarat (1996) 1 SCC 718**
- (v) Uday Mohanlal Acharaya Vs. State of Maharashtra (2001) 5 SCC 453**
- (vi) Rakesh Kumar Paul Vs. State of Assam (2017) 15 SCC 67**
- (vii) Achpal @ Ramswaroop & Anr. Vs. State of Rajasthan (2019) 14 SCC 599**

35. In light of what has been held in the above judgments of the Supreme Court; the language of the order dated 23.3.2020; relevant statutory provisions and in view of what has been discussed hereinabove and concluded in para no.33 above, I find myself in total agreement with the 1st view taken by Madras High

Court (order dated 8.5.2020); Kerala High Court; and Uttarakhand High Court. Needless to mention that subsequent view taken by Single Bench of Madras High Court (order dated 11.5.2020 in S. Kasi's case) does not much impress me.

36. The revision petition, thus, deserves to be allowed; it is hereby allowed. Order dated 10.2.2020 passed by the learned Principal Magistrate, Juvenile Justice Board, Udaipur so also the order dated 17.2.2020, passed by the learned appellate Court i.e. Special Judge, (Protection of Children from Sexual Offence Act and Child Rights Protection Commission Act) No.1, Udaipur, in Criminal Appeal No.8/2020, is hereby, set aside.

37. It is directed that the petitioner – Pankaj S/o Late Lalshankar Meena shall be released on bail on furnishing a personal bond by his natural guardian Ramesh S/o Dhanji Meena (Uncle) in the sum of Rs.50,000/- and two sureties of Rs.25,000/- each to the satisfaction of the Juvenile Justice Board, Udaipur with the stipulation that on all subsequent dates of hearing he shall produce the petitioner before the said Board or any other Court during pendency of the inquiry in the case and that his guardian shall keep proper look after of the petitioner and keep him away from the company of known criminals.

38. This Court is of the view that in the prevailing circumstances of complete lock-down amidst spread of COVID-19, furnishing of two sureties will be difficult on the one hand and the same may pose eminent threat to the concerned. It is, therefore, ordered that the petitioner shall be released on bail upon furnishing the personal bond. He may furnish requisite sureties by 20.6.2020 to the satisfaction of the learned trial Court.

39. Petitioner shall be required to appear before that Court on all dates of hearing and as and when called upon to do so. In case, he fails to furnish surety bonds by the stipulated time, the instant order will come to an end automatically.

(DINESH MEHTA),J

52-CPGoyal/-