

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
WRIT PETITION (CRL.) NO(s). 63 OF 2013

NAND KISHORE

Petitioner(s)

VERSUS

STATE OF M.P.

Respondent(s)

(With appln(s) for bail and office report)  
(FOR FINAL DISPOSAL)

Date: 15/07/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN  
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Mr. Rishi Malhotra,Adv.

For Respondent(s) Mr. S.K. Dubey,Sr.Adv.  
Mr. C.D. Singh,Adv.  
Mr. Yogesh Tiwari,Adv.  
Ms. Sakshi Kakkar,Adv.

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

This petition is filed claiming the benefit of the provision of the Juvenile Justice (Care and Protection of Children) Act, 2000 ('Juvenile Act' for short). Petitioner claims that his date of birth is 14.4.1980 and the incident occurred on 18.6.1997 and thus he was 17 years 2 months on the date of commission of the offence. He has been convicted for the offence under Section 302 of Indian Penal Code by the trial Court and as affirmed by the the High Court vide its judgment and order dated 26.08.2004 and his conviction and sentence has been upheld by this Court vide judgment and order 7.7.2011. However, this petition has been filed in view of the judgment of this Court in Abzur Hossain Alias Gulam Hossain vs. State of West Bengal (2012) 10 SCC 489 wherein this Court has upheld that inspite of the fact that the judgments and orders of conviction and sentence have attained finality up to this Court, it may be re-opened and in view of the the amendment in the Juvenile Act, retrospectively. The petitioner however, claims that he has served 11 years in jail. In view thereof, we pass the following order:

- 1) The petitioner is enlarged on bail to the satisfaction of the learned Sessions Judge, Datia, Madhya Pradesh.
- 2) The matter is referred to the Juvenile Justice Board, Datia, Madhya Pradesh wherein the petitioner will appear and put his claim of juvenility before it by adducing all relevant material in support of it, particularly, the High School certificate etc. and the Juvenile Justice Board after hearing the State also shall submit the report to this Court within a period of two months from today.

List the matter after two months.

(O.P. Sharma)  
Court Master

(M.S. Negi)  
Court Master