

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 285 of 2015

1. Krishna Kumar Rathiya, son of Surendra Singh Rathiya, aged about 15 years, Resident of village Gersa, Tahsil and PS Dharamjaygarh, District Raigarh, CG

---- Applicant

Versus

1. State of Chhattisgarh through Station House Officer, Police station – Dharamjaygarh, District Raigarh, CG

---- Respondent

For Applicant:	Shri Adil Minhaj, Advocate
For Respondent/State:	Shri Vivek Sharma, GA

Order On Board by Pritinker Diwaker, J

30/10/2015

On mention being made, this case is taken up for being decided finally.

This revision petition has been filed by the applicant against the order dated 9.3.2015 passed by Special Judge, Raigarh in Criminal Appeal No. 12/2015 dismissing the appeal preferred by him against the order dated 21.1.2015 passed by the Principal Magistrate, Juvenile Justice Board, Raigarh in Criminal Case No. 15/2015.

2. As per the case of prosecution as the applicant used to suspect the illicit relations between his unmarried aunt Tilmoti and deceased Manoj Agrawal and out of anger on 18.12.2014 at about 8 PM he caused injury to Manoj Agrawal with axe which resulted in his death on 25.12.2014. The applicant filed an application before the Principal Magistrate, Juvenile Justice Board, Raigarh under Section 12 of the Juvenile Justice (Care & Protection of Children) Act, 2000 (for short the "Act of 2000") for grant of bail which was rejected on 21.1.2015 on the ground that if released on bail, he may be exposed to moral danger. Order of the Magistrate was challenged by the applicant by way of appeal before the Special Judge, Raigarh, which however came to be

dismissed by the impugned order mainly on the ground that his release may expose him to moral, physical as well as psychological danger.

3. Counsel for the applicant submits that both the Courts below have erred in law in rejecting the bail application as also the appeal filed by the applicant. He submits that the provisions of Section 12 of the Act of 2000 have been completely ignored by both the Courts below. According to the counsel for the applicant the report of the Probation officer does not indicate anything against the applicant, rather it says that the applicant is a boy of premature understanding and the entire episode at his hands is the result of adamant attitude of the deceased in not heeding to the say of the applicant to stop intimacy with his aunt namely Tilomati. Referring to the report of the Probation Officer, it is further submitted that the applicant can be rehabilitated if he is provided the congenial and family-like atmosphere.

4. State counsel however supports the orders impugned passed by the Courts below and submits that the application for release of the applicant on bail and then the appeal preferred subsequently have rightly been dismissed and there is no infirmity or illegality in the same.

5. Heard counsel for the parties and perused the documents on record.

6. Before drawing any conclusion regarding correctness or otherwise of the orders impugned, glance of the relevant provisions such as Section 12 of the Act of 2000 becomes necessitous, which is reproduced as follows:

“Section 12 : Bail of Juvenile. - (1) When any person accused of a bailable or non bailable offence, and apparently a juvenile, is arrested or detained or appears or is 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 institution or fit person] but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with nay known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer in charge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.”

A bare reading of section 12 (1) makes it clear that any person accused of a bailable or non bailable offence, and apparently a juvenile, is arrested or detained or appears or is 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. It further says that such person shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known or expose him to moral, physical or psychological danger or tht his release would defeat the ends of justice.

7. Similarly, Section 13 of the Act of 2000 reads as under:

“13. *Information to parent, guardian or probation officer.*- Where a juvenile is arrested, the officer incharge of the police station or the special juvenile police unit to which the juvneile is brought shall, as soon as may be after the arrest, inform-

(a) the parent or guardian of the juvenile, if he can be found of such arrest and direct him to be present at the Board befor ewhich the juvenile will appear; and

(b) the probation officer of such arrest to enable him to obtain information regarding the antecedents and family

background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry.”

8. In the case in hand the report of the probation officer says that the applicant is a boy of premature mindset and can be rehabilitated if proper guidance is provided to him by keeping in a family-like congenial atmosphere. Report further says that the chatting on phone by the deceased with the unmarried aunt of the applicant infuriated him (applicant) and when this activity between the two did not stop even after being told by him many a time, the crime in question took place. The report nowhere says that if the applicant is released on bail, he would come into association with any known criminal or it would expose him to moral, physical or psychological danger or would it defeat the ends of justice.

9. Thus considering the facts and circumstances of the case and the report of the Probation Officer, present revision is allowed. Orders impugned are hereby set aside. Applicant is directed to be released on bail on his guardian or parents furnishing a bond in the sum of Rs. 10,000 with one surety for the like sum to the satisfaction of the concerned Juvenile Justice Board. The applicant is directed to appear before the said Board on all the dates as are given to him.

10. Revision allowed.

Sd/-

(Pritinker Diwaker)

Judge