

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 203 of 2015**

- Somesh Mahanand S/o Tilu Mahanand Aged About 17 years R/o New Krishna Nagar, Supela Tehsil & District Durg, C.G. (Natural Guardian Father Tilu Mahanand)

---- Applicant**Versus**

- State Of Chhattisgarh S/o Through Chowki Smriti Nagar Incharge, Police Station Supela, District Durg C.G.

---- Respondent

For applicant	: Shri Avinash Chand Sahu, Advocate.
For Respondent	: Ms. Sangeeta Mishra, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****07/04/2015**

The applicant has preferred this revision under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act of 2000'). The appellant is a juvenile in conflict with law as per the definition of Section 2 of the Act 2000. Offence was registered against him vide crime No.972/14 under Section 341, 294, 506 B, 302 of the IPC in the Police Station Supela Distt. Durg, and presently criminal case No.548/14 is pending before Juvenile Justice Board, Durg and the juvenile is in detention. The applicant has filed an application for bail and the same was dismissed by the Juvenile Justice Board, Durg on 02.01.15. Thereafter he had challenged the said order by filing the appeal before the Sessions Court of First Additional Sessions Judge Durg. The learned First Additional Sessions Judge, Durg vide its order dated 27.01.15 in criminal appeal No.548/14 dismissed the

appeal and held that the order of juvenile justice board rejecting the bail application of the juvenile is in accordance with law and thereby dismissed the appeal as not maintainable.

2. By filing this criminal revision, the applicant submits that the order is contrary to the law, facts and circumstances, there is enough material available on record to grant bail to the applicant, both the Courts below have committed grave error by overlooking that the facts that the complaint has failed to identify the applicant at the time of the his statement before the Court. FIR was recorded against unknown person and there is no eye witness. By filing this revision, the applicant submits that the revision may be allowed and the applicant may be released on bail in the interest of justice.

3. I have heard both the parties and perused the material filed along with the revision petition.

4. Learned counsel for the revisioner submits that on the basis of ground taken in the revision, the applicant may be released on bail. Learned counsel for the applicant submits that the incident took place on 20.11.14, the deceased died on 25.11.14 and after the death of the deceased offence under Section 302 of the IPC is registered against the applicant and thereby only one case is pending against him but the both the Courts below dismissed the petition as if he had committed two crimes. As per requirement of Section 12 of the Act, there should be specific ground for rejection of bail, the applicant has not committed any other offence. Hence, the revision may be allowed. Learned counsel for the appellant has placed reliance on unreported judgment of this court passed in **Criminal Revision No.673/2008, Mangal Singh Vs. State of CG** wherein the co-ordinate bench of this High Court has held that provisions of Section 12 of the Act, relating to bail of the

juvenile are mandatory in nature and normally juvenile shall be released unless there is likelihood of his association with known criminal or chance to expose into moral, physical and psychological danger or that his release would defeat the ends of justice. He further placed reliance on **2007 CriLJ 1942 Sandeep vs. State of Chhattisgarh** passed on 21.02.07 wherein Coordinate Bench of this Court held that looking to the provisions of Section 12 of the said Act exist, but the existence of such circumstances should not be merely a guess work of the Court, but it should be based on some evidence may be some police report or any other such evidence which can substantiate the refusal of release. Learned counsel submits that his case is identical to the above mentioned cases, hence, the applicant may be released on bail.

5. Learned counsel for the non-applicant/State opposed the revision and submitted that there is no illegality or infirmity committed in the orders passed by the both the Courts below. Hence, the revision is not maintainable.

6. In both the case law cited, the Court has reiterated the provisions under Section 12 of the Act. Section 12(1) of the Act reads as under:

“12. Bail to 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 any known criminal or expose

him to moral, physical or psychological danger or that his release would defeat the ends of justice.”

7. While deciding this criminal revision, this Court has to see whether any legality or propriety in the findings exists or not. If not this court may interfere with the orders passed by the Court below. On perusal of the orders passed in criminal appeal No.548/2014, the learned appellate court perused the report duly submitted before the Juvenile Justice Board under Rule 72(1) under form (11). As per the report duly submitted, earlier the applicant committed offence under Section 392 of the IPC and his case is pending. The applicant was given the benefit of bail in that case and thereafter again vide crime No.972/14 offence under Section 341, 294, 506-B, 324 and 302 IPC was registered and the case is pending. The learned Juvenile Board and the appellate Court held that once the applicant was admitted on bail and thereafter offence of murder registered against him which is pending which shows that the juvenile after availing the benefit of bail again involved in heinous offence like murder thereby the court held that if again benefit of bail is given him, there is possibility of committing any crime again or come into contact of criminals thereby the Juvenile Justice Board and the appellate Court rejected the prayer of the applicant.

8. On perusal of both the orders would show that the report sought from the authorities concerned and on the basis of report and with present facts that two offence of heinous nature are pending against the juvenile which goes to show that order of both the courts is based on facts and a report was sought as per law with a 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 his release would defeat the ends of justice. Upon appreciation of both the orders, this Court is of the view that no illegality or impropriety and incorrectness was committed in the said order. The order is well reasoned, there is no scope for interference, hence, the revision is dismissed as not maintainable.

(Chandra Bhushan Bajpai)
J U D G E