

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 290 of 2015

1. Rekhil alias Rekhram alias Bhola son of Dhaniram, Aged about 17 years, R/o Village Ranigaon, PS Sihawa, Tahsil Nagri, District Dhamtari CG

---- Applicant

Versus

1. State of Chhattisgarh through District Magistrate, District – Dhamtari, 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 28.2.2015 passed by Additional Sessions Judge, Dhamtari in Criminal Appeal No. 34/2015 dismissing the appeal preferred by him against the order dated 21.11.2014 passed by the Principal Magistrate, Juvenile Justice Board, Dhamtari in Criminal Case No. 41/2014.

2. As per the case of prosecution on 27.7.2014 at about 4 PM co-accused Barsati aged about 27 years had committed rape on the prosecutrix while she was grazing cattle in the field. Allegation against the applicant is that first he drove away the three boys namely Dhruv, Nikhil and Yogesh who had seen the incident and thereafter he also committed the rape on her, for which offences under Sections 376D, 354B, 506 IPC and Section 4 of the POSCO Act were registered against him.

3. Counsel for the applicant submits that both the Courts below have erred in law in rejecting the bail application on 21.11.2014 as also the appeal filed by the applicant on 28.2.2015. 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 has no bad habits and he is a boy of discipline and good character with no criminal antecedents. Referring to the report it is submitted that in this case the crime has been committed by the applicant after being victimized by the circumstances forcing him into the contact of adult criminals. Further referring to the report of the Probation Officer, it is submitted that the applicant can be rehabilitated if he is allowed to remain in the company of his parents and treated well by the society.

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 any 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 that 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 in charge of the police station or the special juvenile police unit to which the juvenile 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 before which 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 discipline and good character with no criminal antecedents and he can be rehabilitated if allowed to remain in the

company of the parents and given proper treatment by the society. 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