

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 504 of 2015

1. Akash Dewangan, aged about 15 years, son of Gulab Dewangan, resident of Ward No. 22, Bajrang Nagar, Purani Basti, Birgaon, PS Urla, District Raipur (CG), minor through father Gulab Dewangan, aged about 41 years, son of Bisambar Lal Dewangan, resident of Ward No. 22, Bajrang Nagar, Purani Basti, Birgaon, PS Urla District Raipur, CG.

---- Applicant

Versus

1. State of Chhattisgarh through Station House Officer, Police Station Urla, District Raipur, CG

---- Respondent

For Applicant:	Shri L.C. Das, Advocate
For Respondent/State:	Shri Adil Minhaj, PL

Order On Board by Pritinker Diwaker, J

02/11/2015

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

2. This revision petition has been filed by the applicant against the order dated 22.06.2015 passed by Additional Sessions Judge, Raipur, in Criminal Appeal No. 68/2015 dismissing the appeal preferred by him against the order dated 8.4.2015 passed by the Juvenile Justice Board, Raipur in Criminal Case No. 172/2015.

3. As per the case of prosecution, on 22.2.2015 the applicant with the help of other accused persons has committed the murder of one Laxman Sahu, for which the offence under Section 302, 201/34 has been registered against him.

4. Counsel for the applicant submits that both the Courts below have erred in law in rejecting the bail application by order dated 8.4.2015 as also the appeal filed by the applicant, by order dated 22.6.2015. 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 apart from studies, the applicant does well in extracurricular activities also; that he hails from a middle class family where discipline is given much importance; and that basically he does not have any criminal tendency but has committed the offence involved herein after being influenced by a woman of the locality. Referring to the report counsel for the applicant further submits that looking to the constructive activities of the applicant, it would be just and proper and in the larger interest of the society to streamline him by giving an opportunity for mending his ways. According to the counsel for the applicant, the report of the Probation Officer nowhere says that release of the applicant on bail would expose him to moral, physical or psychological danger or bring him into association with any known criminal

5. 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.

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

7. 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 criminal or expose him to moral, physical or psychological danger or tht his release would defeat the ends of justice.

8. 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.”

9. In the case in hand the report of the probation officer says that the applicant hails from a middle class discipline-loving family and in addition to education, he shows keen interest in the extracurricular activities also. Report does not indicate anything contrary to the applicant rather it says that basically he does not tend to criminality but after coming into the contact of the a woman of the area he has committed the crime in question. As per the the report, looking to the history of the applicant, one opportunity to streamline him should be given to him. 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 it would defeat the ends of justice.

10. 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.

11. Revision allowed.

Sd/-

(Pritinker Diwaker)

Judge