

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 508 of 2015

1. Munna alias Sonu alias alvej (Delinquent) Juvenile), S/o Budharam, Aged about 17 years, R/o village Bangaon, District Jashpur, Through Father and natural guardian Budharam, S/o Tubaram, aged about 50 years, R/o Village Bangaon, Thana Kansabel, District Jashpur, Civil and Revenue District, Jashpur (CG)

---- Applicant

Versus

1. State of Chhattisgarh through police Station Kansabel, District Jashpur (CG)

---- Respondent

For Applicant:	Shri Sanjay Agrawal, 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 18.05.2015 passed by Additional Sessions Judge, Jashpur, in Criminal Appeal No. 24/2015 dismissing the appeal preferred by him against the order dated 29.4.2015 passed by the Juvenile Justice Board, Jashpur in Criminal Case No. 10/2015.

3. As per the case of the prosecution, on 4.12.2014 the accused/applicant with the help of other accused persons took the minor prosecutrix aged about 14 years to his friend's house and committed rape on her, for which the offences under Sections 363, 376 and 212 IPC were 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

29.4.2015 as also the appeal filed by the applicant, by order dated 18.5.2015. 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 and the prosecutrix being acquainted to each other had developed intimate relations and that being the reason the applicant made physical relations with her consensually by taking her to his friend's house. Referring to the report, it is submitted that previously the applicant was a normal boy but lately he has fallen in the grip of fear and depression. Further referring to the report, counsel for the applicant submits that the prosecutrix had willingly accompanied the applicant for enjoying the dance programme and from there he took her to his friend's house and made physical relations with her without bothering about the consequences of his act. Counsel for the applicant further took this Court through the important part of the report of the probation officer which says that it would be just and proper and in the interest of the justice if after being warned the applicant is allowed to remain in the shelter of his parents. 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 any 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 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 criminal or expose him to moral, physical or psychological danger or that 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 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.”

9. In the case in hand the report of the probation officer says applicant and the prosecutrix being acquainted to each other had developed intimate relations and that being the reason the applicant made physical relations with her consensually by taking her to his friend's house. Report further says that previously the applicant was a normal boy but lately he has fallen in the grip of fear and depression, and that the prosecutrix had willingly accompanied the applicant for enjoying the dance programme from where he took her to his friend's house and made physical relations with her without bothering about the consequences of his act. Most importantly, the report of the probation officer speaks clearly that it would be just and proper and in the interest of the justice if after being warned reasonably the applicant is allowed to remain in the shelter of his parents. Said report nowhere says that release of the applicant on bail would expose him to any moral, physical or psychological danger or bring him into association with any known criminal.

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

Jyotishi