

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.135 of 2016**

- Yogesh Kumar Yadav S/o Shri Kuleshwar Prasad Yadav Aged About 16 Years Through Guardian Father Kuleshwar Prasad Yadav, Aged About 40 Year S/o Budharu Ram Yadav, R/o Village Govinda, Post Chhatera, P.S. Arang, District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The District Magistrate, Raipur, Chhattisgarh.

---- Respondent

Shri AD Kuldeep, counsel for the applicant.

Shri Lav Sharma, Panel Lawyer for the State/respondent.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****22.3.2016.**

Heard.

2. Facts required for the disposal of the instant criminal revision are that before the Juvenile Justice Board, Criminal Case No.554/2015 (State vs. Yogesh Kumar Yadav) under Section 376 of the Indian Penal Code and under Section 3 & 4 of Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act') is pending. The applicant has filed an application under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act of 2000') for bail. The Court below vide order dated 23.12.2015, after appreciation of the entire material held that if the bail is granted then it would defeat the ends of justice and also the juvenile requires institutional improvement and if he is detained in the concerned remand home

there is possibility for proper effect in the conduct and mentality of the said juvenile and he will get disciplined environment, hence rejected the the application of the juvenile in conflict with law. Against the said order, the applicant has preferred criminal appeal No.19/2016 before Additional Sessions Judge (FTC), Raipur and vide order dated 02.02.2016 the learned appellate Court after appreciating the entire material and facts, heinousness of the offence and the provisions of Section 12 of the Act 2000, dismissed the appeal and affirmed the order of the trial Court. Against the said order the applicant has preferred the instant criminal revision under Section 53 of the Act 2000 wherein it is mentioned that the applicant is a student of Class-10 and if he is allowed to keep in the observation home, his entire future would be doomed and thus would be at a loss which cannot be compensated in any other manner and as per the doctor's report, there is no positive report regarding intercourse, the matter will take time for the trial, hence the revision may be allowed and the order passed by the Juvenile Justice Board and the appellate Court be quashed and the applicant may be released on bail.

3. On the other hand, response/reply has been filed on behalf of the State. While opposing the instant criminal revision it is submitted that as per the evidence collected by the prosecution there is enough material to constitute the offence of rape and also for the POCSO Act. Looking to the entire facts, the Court below rightly rejected the prayer of the applicant to enlarge him bail

thereby it has not committed any illegality or impropriety, hence, it is submitted that the instant revision may be dismissed.

4. On behalf of the applicant entire ground taken in the instant criminal revision are supported and submitted that the instant criminal revision may be allowed and relief as sought may be granted.

5. On the other hand, learned counsel for the State opposed the arguments advanced on behalf of the applicant and submitted that the instant criminal revision may be dismissed as not maintainable.

6. To appreciate the arguments advanced in this behalf the instant criminal revision, reply, documents annexed and also the impugned order are perused. As a settled law, under the provisions of Section 12 of the Act 2000, it appears reasonable ground for believing that release is likely to bring the juvenile in association with any known criminals or expose him to moral physical or psychological danger or that his release would defeat the ends of justice. Order dated 23.12.2015 of the Juvenile Justice Board and the order passed on 02.2.2016 by the Additional Sessions Judge in Criminal appeal goes to show that looking to the age of the prosecutrix as she was aged about 4 years only at the time of the incident and other evidence collected, with other facts and circumstances mentioned in both the orders passed by the Courts below, in the considered view of this Court, the Courts below have not committed any illegality or impropriety

and incorrectness while rejecting the prayer of the juvenile/applicant to release him on bail. As the application was disposed of along with speaking order and the material adduced for rejecting the petition, in the considered view of this Court since both the courts below have not committed any illegality or impropriety or incorrectness, the orders passed by the Courts below do not require any interference. Accordingly, the revision is dismissed at the motion stage itself.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE