

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION No. 216 of 2016**

Indar Tiwari S/o Late Bhuneshwar Aged About 16 Years 11 Months, R/o Village Paraswar Rajakhadiya, Shaktinagar, P.S. Shaktinagar, District Sonadbhadra (U.P.) through natural guardian Shakuntala Tiwari, mother of revisioner, aged about 53 years.

---- Applicant**Versus**

State of Chhattisgarh Through the Station House Officer, Police Station Odgi, District Surajpur, Chhattisgarh

---- Non-applicant

For Applicant	:	Shri Ashok Shukla, Advocate.
For Non-applicant/State	:	Shri Vaibhav A Gowardhan, PL.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****01.08.2016**

1. The present Criminal Revision has been preferred challenging the order dated 01.02.2016 passed by the Sessions Judge, Surajpur, Distt. Surajput, in Criminal Revision No.01/2016 whereby the revision (which ought to have been appeal) preferred by the Applicant under Section 12 of the Juvenile Justice (Care And Protection of Children) Act 2000 (hereinafter 'the Act, 2000') was rejected dismissing the revision against the order of rejection of bail by the Court below on 13.01.2016 in Crime No. 70/2016.
2. Case of the prosecution in brief is that the applicant, minor, and two other accused persons (who were major), are said to have engaged/hired one Bolero Car from Vindhya Nagar, Uttar Pradesh to

visit Kudargarh, Chhattisgarh for religious purpose. It is said that en route the applicant along with other accused persons near Harai Nala at Biarpur, Distt. Surajpur, Chhattisgarh, is said to have stopped the Car and assaulted the driver of said Car. In the course, it is also said that the present applicant fired bullet shot upon the driver due to which he succumbed, thereafter they had thrown the body of driver and fled away with the Bolero Car. Initially an FIR was lodged against the unknown person. subsequently during the course of investigation it was found that it was the applicant and two other accused persons who have committed the crime. Pistol was also seized from the possession of the present applicant.

3. Learned Counsel for the Applicant submits that as per Section 12 of the Act, 2000, for the purpose of releasing the juvenile on bail, the gravity of offence is not to be seen. It is further submitted that there is no evidence whatsoever to implead the applicant. The applicant is a minor and the maximum sentence which could be imposed is three years out of which he has already remained at observation home for a period of ten months, and therefore, it is a fit case where the applicant can be enlarged on bail.
4. However, learned counsel appearing for the State opposes the bail application on the ground that taking into consideration the nature and gravity of offence committed by the applicant, it is not a fit case where the applicant be enlarged on bail.
5. Counsel for the applicant relies upon the judgment of this court in case of Sandeep Vs. State of Chhattisgarh, reported in 2007 CrLJ

1942 and Bharat @ Bhurat and another Vs. State of Chhattisgarh, reported in 2005(4) MPHT 33(CG) wherein considering the nature of offence, the court below while considering the provisions of Section 12 of the Act, 2000, has held that, in the event an application for grant of bail is moved by the juvenile, it becomes obligatory on the part of the court to release him on bail and that the gravity of offence is not to be seen at the relevant point of time.

6. Having heard the counsel for the parties and having perused the record, this court is of the opinion that the present is a case where the track record of the applicant itself speaks the nature of the applicant. He is implicated as one of the prime accused in the case under Section 302 IPC. In addition, if we take into consideration the manner in which the offence has been committed also shows that it is not a case where the incident occurred because of spur of moment, but it is a case where preplanned execution of the case has been committed by the applicant along with two other persons. Apart from this case, other case of loot are also found to have been registered against the applicant.
7. Before considering the case of the applicant it would be appropriate if Section 12 (1) of the Act is of 2000 is taken into consideration and for ready reference the same is being reproduced hereunder:

"Section 12: (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 of 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.

A plain reading of the said section by itself gives a clear indication that under the normal circumstances as a matter of routine, in case an accused person happens to be a juvenile and is arrested, detained and is brought before the Board, such person notwithstanding anything contained in either Code of Criminal Procedure or under any other special law which is in force should be released on bail. But at the same time the latter part of Sub Section 1 of Section 12 clearly envisages the fact that in a given factual background of a case if it appears to the Court that the releasing of the said juvenile can bring him into the association of the company with which he landed himself in the remand home or he may get exposed to moral and psychological danger as also exposing himself to physical danger, the juvenile may not be released. That means, in the event the circumstances surrounding the juvenile shows that upon his release from the observation home can lead to exposing the juvenile to both moral as well as psychological danger, the Court may refuse to release the juvenile on bail.

8. In the instant case also taking into consideration the facts and circumstances of the case, the offence committed by the juvenile

cannot be brushed aside. Therefore, in the opinion of this Court, if the applicant is released on bail, there is all chances of his coming into association with known bad company which would further expose him to moral as well as psychological danger and if that happens on his release, then the ends of justice would get defeated.

9. For the aforesaid reasons, this Court is of the opinion that the findings given by the Court below does not warrant any interference at this juncture and the present case does not fall within the ambit of Section 12 of the Act, 2000, but would fall within the exception carved out in the said section. For all these reasons, the judgments cited and relied upon by the applicant is distinguishable in the facts of the present case.

10. Accordingly, no good case has been made out for allowing the instant Criminal Revision calling for interference with the order under challenge.

11. The Criminal Revision being devoid of merit is liable to be and is hereby dismissed.

Sd/-
(P. Sam Koshy)
Judge