

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 534 of 2016**

Minor Mohit Kumar Malakar S/o Shaukilal Malakar Aged About 17 Years & 07 Months, Represented Through Father Shaukilal Malakar, S/o Panchu Malakar, Aged About 48 Years, R/o Village Bargaon, Police Station Sariya, District Raigarh Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through District Magistrate, Raigarh, District Raigarh Chhattisgarh

---- Non-applicant

For Applicant :	Mr. Ashish Gupta, Advocate
For Non-applicant/State:	Mr. Anupam Dubey, Deputy Government Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20.06.2016**

1. The present Criminal Revision has been preferred challenging the order dated 05.05.2016 passed by the Additional Sessions Judge, (F.T.C.), Raigarh (C.G.) in Criminal Appeal No. 67/2016 whereby an 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 appeal against the order of rejection of bail by the Court below on 17.03.2016 in Criminal Case No. 34/2016.

2. The allegation against the present Applicant is that he is said to have abducted the Prosecutrix, a minor and during the course of keeping her in his custody subjected her to rape and for the aforesaid reasons a complaint was lodged by the father of the Prosecutrix and a case under Sections 363 & 376 of I.P.C. and 4, 6 & 8 of Protection of Children from

Sexual Offences Act , 2012 (In short 'POCSO Act') against the present Applicant has been registered.

3. Learned Counsel for the Applicant submits that the present Application is in the Observation home since 05.02.2016 i.e. almost more than 4½ months. Considering the fact that he is juvenile and the provision made under Section 12 of the Act, 2000, he may be enlarged on bail. He further submits that there is material contradiction and discrepancy in the statement of the Prosecutrix, which also entitles him for grant of bail.

4. 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. In the instant case also, taking into consideration the report of the Probationary Officer who describes the conduct of the juvenile to be of very short tempered and also hiper active coupled with the fact that he is in the habit of being in the bad company, and taking note of 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.

5. 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 particularly when the matter is fixed for evidence of the Prosecutrix before the Court below.

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

7. The Criminal Revision being devoid of merit, the same is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE