

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 675 of 2016**

Monish Kumar Ramteke S/o Shri Bhagwati Prasad Ramteke Aged About 17 Years (Minor) Through Natural Guardian Father Bhagwati Prasad Ramteke, S/o Luduram Ramteke, Aged About 54 Years, R/o Village Bihrikala, Police Station Ambagarh Chowki, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Machgunwa, District Balod, Chhattisgarh.

---- Non-applicant

For Applicant

Shri Sunil Sahu, Advocate.

For Non-applicant/State

Shri Vaibhav A. Goverdhan, Panel Lawyer.

SB: Hon'ble Shri Justice P.Sam Koshy

Order On Board

22.07.2016

Heard learned Counsel for the Applicant and the Non-applicant.

2. The present Criminal Revision has been preferred challenging the order dated 09.06.2016 passed in Criminal Appeal No.57/2016 by the Second Additional Sessions Judge, Balod, district – Balod (C.G.). The Sessions Judge has vide impugned order has affirmed the order of the Juvenile Justice Board, Balod rejecting the bail application on 28.05.2016 in Criminal Case No. 22 of 2016.

3. Learned Counsel for the Applicant submits that the Applicant admittedly is a juvenile, aged about 17 years and has been charged for the offence under Section 34(2) of C.G. Excise Act. He was found carrying 8.820 litres of

illicit liquor. There is no criminal antecedent of the present applicant. Further, that he is in Observation Home since 20.05.2016 and that other Co-accused who was major has already been enlarged on bail by this Court, therefore he may be enlarged on bail taking into consideration the provisions of Section 12 of the Juvenile Justice Act.

4. In case of Dayasagar Yadav @ Sagar Vs. State of Chhattisgarh¹ in para -6, this court has observed as under:

“The scope and object of provision regarding grant of bail to a Juvenile as envisaged under Section 12 of the Act came up for consideration before the Single Judge of this Court in the case of Bharat @ Bhurat & Another (supra), wherein it was held that the use of word "Shall" by the legislative provisions in the Section 12 of the Act is of great significance and which raises a presumption that the particular provision is imperative and makes it manifest that ordinarily the Board is under obligation to release the Juvenile on bail with or without surety, but the Juvenile shall not be so released in certain circumstances as latter part of the Section also uses the word "Shall" imposing certain mandatory conditions prohibiting the release of the Juvenile by the Board. It has also been held that ordinarily the bail has to be granted to the Juvenile and would be liable to be rejected only when it appears to the Board that either of the three conditions mentioned in Section 12 of the Act are existing.”

5. The said observations of the court was based upon the decisions rendered in case of Akhilesh Kumar Vs. State of Chhattisgarh² as well as judgment delivered by the MP High Court in case of Rahul Mishra Vs. State of Madhya Pradesh³.

6. Considering the total facts and circumstances of the case particularly

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2011 (1) CGLRW-140

2 2006 (1) CGLJ 305

3 2001 Cri.LJ 214

the fact that the Applicant being a juvenile is already in custody for more than two months and also considering the nature of offence and the ratio of law laid down in Dayasagar (Supra), it is a fit case where he can be released on bail.

7. Accordingly, the Criminal Revision is allowed. The impugned order dated 09.06.2016 is set aside. It is directed that the Applicant shall be released on bail on his and one of his guardian furnishing a personal bond for the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court, for his appearance as and when directed.

**Sd/-
(P. Sam Koshy)
JUDGE**