

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 729 of 2016**

Deepak Singh S/o Ugrasen Singh Aged About 16 Years Minor Through Father Ugrasen Singh S/o Krishna Kumar Singh, Aged About 57 Years, R/o Munibaba Gali, Jabdapara, Sarkanda, Bilaspur, Tahsil And District Bilaspur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate, Janjgir Champa (Through Station House Officer, Police Station Sherorinarayan, District Janjgir Champa Chhattisgarh.

---- Non-applicant

For Applicant	Shri Avinash Chand Sahu, Advocate.
For Non-applicant/State	Shri U.K.S. Chandel, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****08/08/2016**

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

2. The present Criminal Revision has been preferred challenging the order dated 20.07.2016, whereby the Additional Sessions Judge (FTC), Janjgir has rejected the Criminal Appeal i.e. Criminal Appeal No. 85/2016 filed by the present Applicant.

3. Learned Counsel for the Applicant submits that the Annexure P/4 attached with the Petitioner is the statement of the victim who herself has very categorically stated that it was she who has called the present Applicant to her house and then they had physical relationship and subsequently left the house together without any undue pressure or coercive act by the present

Applicant. He further submits that the Applicant as well as the Prosecutrix admittedly both were juvenile of the same age group. That the offences which have been charged against the Applicant are under Sections 363, 366 and 376 IPC and Section 6 of Protection of Children from Sexual Offences Act and also Section 3(2)(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act. That, there is no criminal antecedent of the present applicant. That it is not a case where he was got into wrong company of criminals which made him commit the offence, rather it was a folly of youth which led to the commission of offence. Further, that he is in Observation Home since 11.04.2016, therefore he may be enlarged on bail taking into consideration the provisions of Section 12 of the Juvenile Justice Act.

4. However, learned State Counsel opposes the Revision on the ground of nature of allegations levelled against the Applicant is serious and victim is also a minor.

5. In case of **Dayasagar Yadav @ Sagar Vs. State of Chhattisgarh**¹ wherein 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

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2011 (1) CGLRW-140

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.”

6. The said observations of the court was based upon the decisions rendered in case of **Akhilesh Kumar Vs. State of Chhattisgarh**² as well as judgment delivered by the MP High Court in case of **Rahul Mishra Vs. State of Madhya Pradesh**³.

7. Considering the total facts and circumstances of the case particularly the fact that the Applicant being a juvenile is already in the Observation Home for about four months and also considering the nature of offence and the ratio of law laid down in Dayasagar (Supra) and also the statement of the Prosecutrix, it is a fit case where he can be released on bail.

8. Accordingly, the Criminal Revision is allowed. The impugned order dated 20.07.2016 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 two sureties in the like sum to the satisfaction of the concerned Trial Court, for his appearance as and when directed.

Sd/-
(P. Sam Koshy)
JUDGE

kishore

2 2006 (1) CGLJ 305

3 2001 Cri.LJ 214