

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1009 of 2016

Raju Ravi @ Chhotu @ Nanbabu S/o Shri Manmohan Ravi Aged About 14 Years Through Natural Guardian Father Manmohan S/o Pansay, Aged About 40 Years, R/o Village Khamhariya, Police Station Udaypur, District Surguja, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Udaypur, District Surguja , Chhattisgarh.

---- Respondent

For Applicant	:	Shri Arvind Sinha, Advocate
For Respondent/State	:	Shri D.R. Minj, Dy.Govt. Advocate.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

16/12/2016

Heard.

1. This revision is directed against the order dated 27.10.2016 passed by the appellate authority by which the order rejecting juvenile's application for grant of bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "*the Act of 2015*") has been affirmed and appeal dismissed.
2. The prosecution allegation against the juvenile in conflict with law is that in the night of 16.8.2016, the applicant along with co-accused kidnapped the girl aged 15 years and it is alleged that co-accused Arjun @ Shiv Gulab Chouhan committed rape on the prosecutrix. The allegation against the applicant is that he helped the co-accused to accompany and take the girl away whereafter co-accused committed rape.

3. Learned counsel for the applicant submits that the applicant is not the main accused. He is stated to be the nephew of co-accused who is maternal uncle and prima facie, it appears that at the call of maternal uncle/the co-accused, the applicant might have gone along with him without there being any intention or even information that the co-accused would be taking prosecutrix away with an intention to have sexual intercourse.

The other submission is that the applicant is only aged 14 years of age and is a juvenile, therefore, in the spirit of provision contained in Section 12 of the Act, the applicant is entitled to grant of bail unless exceptional grounds of refusal for grant of bail as enumerated in the provisions itself are made out. It is also submitted that there is no material placed before the Court either in the form of social investigation report or any other circumstance or material in the diary to warrant an inference that release of the applicant would bring him in association with known criminals or expose him to moral, physical or psychological danger or otherwise defeat the ends of justice. The applicant is neither likely to abscond nor is in a position to tamper with the prosecution witnesses.

4. On the other hand, learned counsel for the State has opposed the application. He submits that the manner in which the offence has been committed and the company which the applicant was in, shows that the applicant is likely to come in association with known criminals and in case he is granted bail, he may also be exposed to moral, physical or psychological danger, on which basis the application has been rejected by the Court below.
5. In the present case, the applicant is stated to be about 14 years of age. The other accused is maternal uncle, who prima facie, appears to be the main accused who is alleged to have committed rape on the prosecutrix and the applicant happens to be his nephew.
6. In accordance with the mandate of Section 12 of the Act, elaborately considered by this Court in the case of **Shanti Vs. State of Chhattisgarh**¹, I find that there is no material on record to warrant an inference that in the event of release of the applicant on bail, it would bring him in association of the known criminals or

1.Criminal Revision No. 429 of 2016, decided on 4.11.2016

subject him to moral, physical or psychological danger. Looking to the background of the applicant, his age, financial condition of his father and other material on record, there is nothing to show that the applicant is either in a position to tamper with the prosecution witnesses or is likely to abscond and flee away from the justice. Therefore, in the event of grant of bail, there is no likelihood of ends of justice being defeated.

7. Grant of bail under Section 12 of Act is a rule and rejection is an exception. Unless material warranting rejection of application on exceptional grounds are made out, bail has to be granted.
8. Accordingly, the revision is allowed. Impugned order is set aside. Application under Section 12 of the Act is allowed. The applicant shall be released on bail forthwith on furnishing a personal bond in the sum of Rs.10,000/- by the father or mother of the applicant to the satisfaction of the Juvenile Justice Board, for his appearance before the Board as and when directed.

Sd/-
(Manindra Mohan Shrivastava)
Judge