

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1047 of 2016

Sahil Kumar S/o Narendra Kumar, Aged About 15 Years (Minor), Through Natural Guardian Grandfather Dhanesh Ram S/o Ramsay Sahu, Aged About 67 Years, R/o Pendri, Police Station Gundardehi, District Balod, Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For Applicant	:	Shri Anil Gulati, Advocate
For Respondent/State	:	Shri B. Gop Kumar, Dy.A.G.

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

Order On Board

28/11/2016

Heard.

1. This revision is directed against the order dated 25.10.2016 by which the learned Appellate Court has affirmed the order of rejection of bail application by the Juvenile Justice Board.
2. Learned counsel for the applicant argues that the learned Court below has rejected the application ignoring the statutory scheme of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as "*the Act of 2000*"), under which, grant of bail is a rule and rejection is only on exceptional grounds. He submits that the Courts below are swayed more by the nature of offence rather than other relevant material to find out whether any of the ground to reject the application are made out.
3. On the other hand, learned counsel for the State has opposed the application

and submitted that the manner in which the applicant kept the girl with him and committed repeated sexual intercourse and that she became pregnant, the Court below has rightly rejected the application.

4. After going through the order passed by the learned Court below, I find that the main reason for rejection of application is that as the applicant has repeatedly committed sexual intercourse with girl, if he is released, it may send a wrong message in the society and will also defeat the ends of justice.
5. I have gone through the Social Investigation Report which does not contain any material against the applicant. There is no other material placed before the Court by the State counsel to form an opinion that in the event of applicant's release, it will bring him in association with any known criminals or expose him to moral, physical or physiological danger or otherwise defeat the ends of justice. The reasoning adopted by the learned Court below is not correct in law. The grounds on which the bail application may be rejected have been exhaustively enumerated in the provision itself. Therefore, it appears that the Court below had adopted wrong approach that in case of release, a wrong message will go in the Society. This is not relevant while consideration application for grant of bail of a juvenile. Therefore, in these circumstances, the rejection of the bail application is held illegal and unsustainable in law.
6. In the result, the revision is allowed. Impugned order is set aside. Application under Section 12 of the Act of 2000 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