

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION NO. 299 OF 2016

Manoj Kumar S/o Ramswaroop Aged About 17 Years R/o Bhandarpara, Police Station Baikunthpur, District Korea Chhattisgarh (Minor) Through His Natural Guardian Father Ramswaroop S/o Ramprasad, Aged About 50 Years, R/o Bhandarpara, Police Station Baikunthpur, Civil And Rev. District Korea Chhattisgarh.

... Applicant

Versus

State Of Chhattisgarh Through District Magistrate, Baikunthpur, Police Station Sonhat, District Korea Chhattisgarh.

... Non-applicant

For Applicant	:	Shri Anil Gulati, Advocate.
For Respondent-State	:	Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

19/07/2016

1. Heard learned Counsel for the Applicant and the Non-applicant.
2. The present Criminal Revision has been preferred challenging the order dated 13.01.2016 passed in Criminal Appeal No.02/2016 by the Additional Sessions Judge, Baikunthpur. The Sessions Judge has vide impugned order has affirmed the order of the Juvenile Justice Board, Baikunthpur rejecting the bail application on 07.01.2016 in Criminal Case No. 06 of 2016.
3. Learned Counsel for the Applicant submits that the Applicant admittedly is a juvenile, aged about 17 years. He further submits that apart from this case, there is no criminal antecedent of the present applicant. It is also submitted that in the complaint lodged by the

prosecutrix, the name of applicant has not been reflected. Further, pending the case before the court below, the prosecutrix has also now been examined on 28.04.2016 and that she has not supported the case of the prosecution and has turned hostile. The applicant is in the observation home since 30.12.2015 and therefore he may be enlarged on bail taking into consideration the provisions of Section 12 of the Juvenile Justice Act.

4. Counsel for the applicant further relies upon the judgment of this court in case of Dayasagar Yadav @ Sagar Vs. State of Chhattisgarh¹ 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 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.

1 2011 (1) CGLRW-140

2 2006 (1) CGLJ 305

3 2001 Cri.LJ 214

6. Considering the total facts and circumstances of the case, particularly the fact that the Applicant being a juvenile is already in observation home for more than six months; further the prosecutrix has not supported the case of the prosecution and also considering the law laid down in Dayasagar (Supra), it is a fit case where the applicant can be released on bail.

7. Accordingly, the Criminal Revision is allowed. The impugned order dated 13.01.2016 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