

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL REVISION NO. 130 OF 2016

Golu @ Onkar Manikpuri S/o Roopdas Manikpuri, aged about 16 yerars, R/o village Sonpairi, Police Station Magarload, Tehsil Kurud, District Dhamtari (CG) (Minor) through his natural guardian represented by his father Roopdas Manikpuri S/o Raindas Manikpuri, aged about 45 years, R/o village Sonpairi, Police Station Magarload, Civil and Revenue District Dhamtari (CG).

... Applicant

Versus

State of Chhattisgarh, through District Magistrate District Dhamtari, Police Station Magarload, District Dhamtari (CG).

... Non-applicant

For Applicant	:	Shri Anil Gulati, Advocate.
For Respondent-State	:	Shri UKS Chandel, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/06/2016

1. Heard learned Counsel for the Applicant and the Non-applicant.
2. The present Criminal Revision has been preferred challenging the order dated 29.12.2015 passed in Criminal Appeal No.134/2015 by the Additional Sessions Judge (FTC), Dhamtari. The Sessions Judge has vide impugned order has affirmed the order of the Juvenile Justice Board, Dhamtari rejecting the bail application on 05.08.2015 in Criminal Case No. 37 of 2015.
3. Learned Counsel for the Applicant submits that the Applicant admittedly is a juvenile, aged about 16 years, and that the offences which have been charged against him are under Sections 341, 294, 506, 323, 354(A)(B), 384 and 385 read with Section 34 of IPC and also under Section 66 of the Information Technology Act. He further submits that

allegation against the applicant is that he along with other co-accused tried to outrage the modesty of prosecutrix, prepared her obscene MMS and also snatched a sum of Rs.1000/- from the prosecutrix. That, apart from this case, there is no criminal antecedent of the present applicant. Further, that he is in custody since 07.06.2015 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 @ Bhrat & 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 custody for more than one year, only four prosecution witnesses have been examined out of 16 and also considering the nature of offence and the ratio of 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 29.12.2015 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