

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 250 of 2016**

Juvenile Praveen Tigga S/o Prafull Tigga Aged About 14 Years R/o Dhodhibahar, Tahsil - Kunkuri, District - Jashpur Chhattisgarh Minor Represented Through Legal Guardian Mother Bhalaria Tigga W/o Prafull Tigga, Aged About 46 Years, R/o Dhodhibahar, Tahsil - Kunkuri, District - Jashpur Chhattisgarh

---- Applicant**Versus**

The State Of Chhattisgarh Through The District Magistrate Jashpur, District - Jashpur Chhattisgarh

----Non-Applicant

For Applicant: Shri CJK Rao along with Shri Harish Khuntiya, Advocates.
For Non-Applicant/State: Shri B. Gopa Kumar, Dy. Advocate General.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

18.7.2016

1. On the previous date, this Court had ordered for report of the Probation Officer. Learned State Counsel submits that he has received the Probation Officer's report.
2. On perusal of the said report, it is reflected that the Probation Officer has taken a view that the present Applicant is an accused only in the present criminal case and there is no past antecedent against him. That the Probation Officer also has made an endorsement that it appears that the present Applicant got implicated in the said case because of his presence in the place of occurrence when the offence took place and that there was no chance for the Applicant of misusing the liberty of bail granted to him.
3. Learned 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.”

4. 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.

5. 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 six months and also considering the nature of the role played in the commission of the offence and the ratio of law laid down in Dayasagar (Supra), this Court is of the opinion that the present is a fit case where he can be released on bail.

6. Accordingly, the Criminal Revision is allowed. The impugned order dated 28.01.2016 is set aside. It is directed that the Applicant shall be released

¹ 2011 (1) CGLRW-140

² 2006 (1) CGLJ 305

³ 2001 Cri.LJ 214

on bail on his and one of his guardians 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

Priya