

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 318 of 2016**

- Sheetal Sahu S/o Shri Shiv Kumar Sahu Aged About 17 Years Minor Represented Through Father Shiv Kumar Sahu R/o Village Sakri, Post Tekari (Kunda), Police Station Mandir Hasoud, Tahsil Arang, District Raipur Chhattisgarh

----Applicant**Versus**

- The State Of Chhattisgarh Through Police Station Mandir Hasoud District Raipur / District Magistrate Raipur Chhattisgarh

---- Respondent

For Applicant	:	Shri Malay Kumar Bhaduri, Advocate
For Respondent-State	:	Shri RK Gupta, Dy. AG for the State.

HON'BLE The Vacation Judge**Order On Board****23/05/2016**

1. Heard the instant Criminal Revision finally at the motion stage itself.
2. Facts of the case, in brief, are that the applicant (Juvenile) is facing a trial before the Juvenile Justice Board, Raipur, Chhattisgarh at Mana Camp, Raipur, Chhattisgarh (for short 'the Board'), as the police of Mandir Hasoud registered a crime No.29/2016 against the present juvenile and other co-accused Ashwani Kumar under Section 34 (2) of the Chhattisgarh Excise Act, 1915 (for short 'the Act, 1915'). The charge-sheet has been filed against the co-accused before the Regular Criminal Court.

3. Allegations against the present juvenile and other co-accused are that the Duty Paid Foreign Liquor 32.400 Liters has been recovered from the co-accused Ashwani Kumar and the motorcycle being used at the time of said incident has been seized from the present applicant (Juvenile). Police, after investigation, held that as the said foreign liquor has been seized with the joint possession of the applicant and the co-accused. Charge-sheet has been filed against the co-accused Ashwani at Regular Criminal Court and the charge-sheet against the present applicant had been filed before the concerned Juvenile Justice Board, Raipur.
4. The applicant had filed an application under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act, 2015'). The concerned Board rejected the prayer of bail and against the said order, the present applicant had filed criminal appeal No.23/2016 before the First Additional Sessions Judge, Raipur, Chhattisgarh under the relevant provisions. The appellate Court vide its judgment dated 14-3-16 dismissed the appeal and affirmed the order passed by the concerned Board.
5. Against the said order the present applicant had preferred a criminal revision under Section 102 of the Act, 2015, wherein it is prayed that the applicant is the first offender, the alleged liquor has not been seized from the custody of the present applicant, there is no any adverse remark in the report of the Probation Officer against the applicant and there is no material to establish that there is any likelihood to bring the present applicant into association with the

known criminals or to expose any moral, physical or psychological danger or his release would defeat the ends of justice and hence it is prayed that by allowing the instant criminal revision, the applicant may be granted bail during trial.

6. On behalf of respondent State, written response has been filed, wherein it is submitted that the order passed by the concerned Board and the appellate Court is proper according to law and facts as both in respect of person concerned, wherein conscious possession of said illegal liquor and also after observing the part of the report of Probation Officer, both the courts below rejected the prayer for bail looking to the seriousness of the crime, hence the present revision may also be dismissed as not maintainable.
7. Heard learned counsel for the parties and perused the material available. Learned counsel for the applicant supported the entire grounds taken in the instant criminal revision and in addition, he submits that this Court granted bail to the co-accused Ashwani Kumar in M.Cr.C. No.1347/2016 on dated 28.03.2016. The liquor was seized from the said co-accused and from the present applicant merely driving the motorcycle so seized, at the moment of the seizure of liquor. He is the first offender with no earlier criminal history, he is in custody since 28-01-2016 till date i.e. for three months and 25 days, his parents i.e. the father will take care properly and ensure that the applicant (Juvenile) will not involve in any other criminal activities, he may also be given opportunity to remain in bail during trial.

8. Per contra, learned counsel for the respondent State opposes the revision and submitted that looking to the quantity seized from the conscious possession of liquor from the present applicant and the co-accused, the observation finds place in the order of Board as also that the appellate Court and, as such, there is no any scope for interference for grant of bail to the applicant, therefore, the instant criminal revision may be dismissed.
9. After perusal of the entire material as it surfaced that the co-accused who is facing trial before the Regular Criminal Court and from whose instance the said liquor was seized granted bail by this Court in M.Cr.C. No.1347/2016, dated 28-03-2016, and also after keeping in mind the provisions of law laid down in the matter of **Banti Singh v. State of Chhattisgarh** (M.Cr.C.No.6846/2014) and looking to the fact that the alleged liquor was not seized from the custody of present applicant, he is in custody for the last 3 months and 25 days, with no any other criminal past, it would be proper to afford one opportunity to the present applicant. Consequently, the instant criminal revision is hereby allowed.
10. The applicant is directed to be released on bail on furnishing personal bond in the sum of Rs.25,000/- through his parent i.e. the father with one surety in the like sum to the satisfaction of the concerned Juvenile Justice Board for his appearance as and when directed, the applicant shall be released on bail till trial. It is further observed that if the applicant remains absent in the proceedings of the said Board for more than once without any proper reason and prayer and if his

absence was held improper by the said Board, the bail granted by this Court would automatically be canceled and the concerned Board may take the applicant in custody along with other proceedings as permitted under the law.

11. It is further directed that the applicant has to submit a specific undertaking through his parents that while on bail he will not commit any similar offence. If the applicant commits any similar offence while in bail, the bail granted to him shall be canceled by the concerned Board on an information from the concerned authority and also the applicant shall co-operate with the proceedings during trial.
12. Accordingly, the criminal revision stands disposed of.

Sd/-
(Chandra Bhushan Bajpai)
Vacation Judge

Ashu