

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRIMINAL REVISION No. 398 of 2016**

Pawan Kumar Pandey S/o Kevla Prasad Pandey Aged About 17 Years Minor Through Brother Jai Kumar Pandey S/o Kevla Prasad Pandey, Aged About 25 Years, R/o Village - Lalganj, District Mirjapur (Uttar Pradesh) At Present R/o Tendudipa, Police Chowki - Jute Mill, Tahsil & District - Raigarh Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station-Jute Mill, District Raigarh (CG).

---- Non-applicant

For Applicant	:	Shri Sachin Singh Rajput with Ms. Renu Singh, Advocates.
For Non-applicant/State	:	Shri OP Sahu, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08.08.2016**

1. The present Criminal Revision has been preferred challenging the order dated 08.03.2016 passed by the IInd Additional Sessions Judge, Raigarh, in Criminal Appeal No.20200000024/2016 whereby the appeal preferred by the Applicant under Section 12 of the Juvenile Justice (Care And Protection of Children) Act 2000 (hereinafter 'the Act, 2000') was rejected affirming the order dated 03.02.2016 passed by the Juvenile Justice Board, Raigarh, in Crime No.941/2015.
2. Learned Counsel for the Applicant submits that the present Applicant is in the Observation home since 17.11.2015 i.e. he has remained in

the observation home for nine months. The applicant has no criminal antecedent except for the present case. Offence under Section 376 IPC is also not made out as ingredients of Section 376 IPC are not there. Further, the prosecutrix, minor victim, also has not sustained any injuries on her private part to establish offence under Section 376 IPC. As per Section 12 of the Act, 2000, for the purpose of releasing the juvenile on bail, the gravity of offence is not to be seen. It is also submitted that both the courts below have not discussed anything so far as merits of the case is concerned. Therefore, it is a fit case where the applicant be enlarged on bail.

3. However, learned counsel appearing for the State opposes the bail application on the ground that taking into consideration the nature of offence committed by the applicant, it is not a fit case where the applicant be enlarged on bail. It is a case where the applicant has forcibly taken the prosecutrix inside the stationary railway cabin and had forcibly ravished the prosecutrix and fled away from the scene. State counsel also refers to the report of Probationary Officer who too has given a report stating that applicant is in the habit of wrong company.
4. Taking into consideration the rival contentions put forth by the counsel for the parties, what is an admitted position is the fact that the applicant is said to have raped the prosecutrix forcefully on the basis of which case has been registered and since then the applicant is in the observation home.
5. Before considering the case of the applicant it would be appropriate

if Section 12 (1) of the Act of 2000 is taken into consideration and for ready reference the same is being reproduced hereunder:

"Section 12: (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety [or placed under the supervision of a Probation Officer or under the care of any fit institution of fit person] but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

A plain reading of the said section by itself gives a clear indication that under the normal circumstances as a matter of routine, in case an accused person happens to be a juvenile and is arrested, detained and is brought before the Board, such person notwithstanding anything contained in either Code of Criminal Procedure or under any other special law which is in force should be released on bail. But at the same time the latter part of Sub Section 1 of Section 12 clearly envisages the fact that in a given factual background of a case if it appears to the Court that the releasing of the said juvenile can bring him into the association of the company with which he landed himself in the remand home or he may get exposed to moral and psychological danger as also exposing himself to physical danger, the juvenile may not be released. That means, in the event the circumstances surrounding the juvenile shows that

upon his release from the observation home can lead to exposing the juvenile to both moral as well as psychological danger, the Court may refuse to release the juvenile on bail.

6. In the instant case also taking into consideration the report of the Probationary Officer and the manner in which the offence has been committed by the juvenile cannot be brushed aside. Therefore, in the opinion of this Court, if the applicant is released on bail, there is all chances of his coming into association with known bad company which would further expose him to moral as well as psychological danger and if that happens on his release, then the ends of justice would get defeated.
7. For the aforesaid reasons, this Court is of the opinion that the findings given by the Court below does not warrant any interference at this juncture and the present case does not fall within the ambit of Section 12 of the Act, 2000, but would fall within the exception carved out in the said section.
8. Accordingly, no good case has been made out for allowing the instant Criminal Revision calling for interference with the order under challenge.
9. The Criminal Revision being devoid of merit, the same is dismissed.

Sd/-
(P. Sam Koshy)
Judge