

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 656 of 2016

- Monu @ Lokesh Sahu S/o Shri Santosh Sahu, Aged About 17 Years. R/o Kalinagar, Lalpur, P.S. Tikrapara, Tahsil Distt. Raipur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through The Police Station, Tikrapara, Raipur Chhattisgarh.

---- Respondent

For Applicant :	Shri N. Naha Roy, Advocate
For Respondent/State :	Shri Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board By

18/07/2016

1. Heard learned counsel for the applicant and non-applicant.
2. The present criminal revision has been preferred challenging the order dated 25/06/2016 passed in Criminal Appeal No. 89/2016 by the 8th Additional Sessions Judge, Raipur (C.G.), whereby the Additional Sessions Judge has rejected the appeal of the applicant which was preferred against the order of Juvenile Justice Board for grant of bail.
3. Counsel for the applicant submits that the present applicant is in observation since 27/03/2016 and apart from the present case two more accused persons both of them being major they were tried by regular Court and the Court below has granted regular bail, therefore, the present applicant also deserves to be granted bail on parity. He further submits that in the present case the only allegation is that the applicant has given fist blows whereas other accused persons who have already released on bail were possessing

iron rod and lathi which are recovered from them whereas no such recovery has been made for the present applicant.

4. Learned State counsel however opposed the bail of the applicant on the ground that the offence committed by the applicant is serious, therefore, he should not be released on bail at this juncture.
5. Counsel for the applicant further relies upon the judgment of this court in case of ***Dayasagar Yadav @ Sagar Vs. State of Chhattisgarh 2011 (1) CGLRW-140*** 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.”

6. The said observations of the court was based upon the decisions rendered in case of ***Akhilesh Kumar Vs. State of Chhattisgarh, 2006 (1) CGLJ 305*** as well as judgment delivered by the MP High Court in case of ***Rahul Mishra Vs. State of Madhya Pradesh, 2001 Cri.LJ 214***.
7. 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

3½ months and also considering the nature of offence and the ratio of law laid down in Dayasagar (Supra), it is a fit case where he can be released on bail.

8. Accordingly, the Criminal Revision is allowed. The impugned order dated 25/06/2016 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

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