

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 665 of 2016**

Bharat Sahu S/o Shri Duryodhan Sahu Aged About 17 Years R/o Village Mahud(A), P.S. Arjunda Civil And Rev. Distt. Balod Chhattisgarh. Through Natural Guardian (Father Of The Applicant) Shri Duryodhan Sahu, S/o Late Fullsingh, Aged About 46 Years R/o Mahud(A), P.S. Arjunda, Distt. Balod Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through District Magistrate, Balod Distt. Balod Chhattisgarh.

---- Non-applicant

For Applicant :	Mr. Mayank Chandrakar, Advocate
For Non-applicant/State:	Mr. Vaibhav A. Goverdhan, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****22.07.2016**

1. Heard on I.A. No.1/2016 which is an application for condonation of delay in filing the present Criminal Revision.
2. For the reasons assigned in the application for the delay and the same found to be satisfactory, I.A. No.1 is allowed. Delay of 48 days in filing the present Revision is condoned.
3. The present Criminal Revision has been preferred challenging the order dated 06.02.2016 passed by the Sessions Judge, Balod (C.G.) in Criminal Appeal No. 11/2016 whereby an 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 of rejection of bail by the Court below on 13.01.2016 in Criminal Case No. 03/2016.

4. The allegation against the present Applicant is that he is said to have entered the house finding a minor girl of 6 years of age alone ravished her and for the aforesaid reason a complaint was lodged by the mother of the Prosecutrix and a case under Sections 342, 363 & 376(2)(i) of I.P.C. and 4, 5 & 6 of Protection of Children from Sexual Offences Act , 2012 (In short 'POCSO Act') against the present Applicant has been registered.

5. Learned Counsel for the Applicant submits that the present Application is in the Observation home since 15.11.2015 i.e. for almost more than 8½ months. Considering the fact that he is juvenile and the provision made under Section 12 of the Act, 2000, he may be enlarged on bail.

6. Learned State Counsel however opposes grant of bail to the Applicant on the ground that the offence committed by the present Applicant is heinous in nature. The manner in which he committed the offence shows the ulterior motive and perverted mentality of the Applicant. He further submits that offence committed by the Applicant is also corroborated from the medical report. His release therefore would be detrimental to the society, though juvenile, he shall not be enlarged on bail.

7. Before considering the case of the applicant it would be appropriate if Section 12 (1) of the Act is 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. 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.

8. 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 particularly when the matter is fixed for evidence of the Prosecutrix before the Court below.

9. Accordingly, no good case has been made out for allowing the

instant Criminal Revision calling for interference with the order under challenge.

10. The Criminal Revision being devoid of merit, the same is dismissed.

Sd/-

(P. Sam Koshy)
JUDGE