

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 875 of 2015

1. Rahul Singh s/o Nawab Singh, aged about 15 years, (Minor) R/o Pakka Dhouda, Ward No. 8, Khongapani, Police Station Jhagrakhand Civil and Revenue District Korea (CG): Through his natural guardian represented by his father Nawab Singh S/o Lalji Singh aged about 35 years, R/o Pakka Dhouda, Ward No. 8, Khongapani, Police Station Jhagrakhand, Civil and Revenue District Korea CG

---- Applicant

Versus

1. State of Chhattisgarh through District Magistrate Baikunthpur, District Korea, CG. Police Station Jhagrakhand, District Korea, CG

---- Respondent

For Applicant:	Shri Anil Gulati, Advocate
For Respondent/State:	Shri Avinash K. Mishra, GA

Order On Board by Pritinker Diwaker, J

15/01/2016

On mention being made, this case is taken up for being decided finally.

This revision petition has been filed by the applicant against the order dated 19.8.2015 passed by Sessionsl Judge, Baikunthpur, District Korea, in Criminal Appeal No. 31/2015 dismissing the appeal preferred by him against the order dated 5.8.2015 passed by the, Juvenile Justice Board, Baikunthpur.

2. As per the case of prosecution, the applicant has been made accused along with seven other persons for committing the offence punishable under Sections 294, 506, 307, 342 and 147 IPC. The appliant filed an application before the Principal Magistrate, Juvenile Justice Board, Baikunthpur under Section 12 of the Juvneile Justice (Care & Protection of Children) Act, 2000 (for short the "Act of 2000") for grant of bail which was rejected on 5.8.2015. The order of the Juvenile Justice Board, on appeal, has come to be confirmed by the order impugned. Hence this revision.

3. Counsel for the applicant submits that out of total 8 accused persons, six major persons have been released on regular bail. He submits that both the Courts below have erred in law in rejecting the bail application by order dated 5.8.2015 as also the appeal filed by the applicant, by order dated 19.8.2015. According to him, report of the Probation Officer says that the applicant is studying in 9th class and wishes to become an engineer. He submits that the provisions of Section 12 of the Act of 2000 have been completely ignored by the Courts below. According to the counsel for the applicant, the report of the Probation Officer does not indicate anything against the applicant, rather it says that the applicant has cordial relations with his family members and the teaches as well. Referring to the report of the Probation Officer it is submitted that applicant's keen interest at studies is appreciated by the colleagues and teachers as well and that he got involved in the crime in question on account of ignorance.

4. State counsel however supports the orders impugned passed by the Courts below and submits that the application for release of the applicant on bail and then the appeal preferred subsequently have rightly been dismissed and there is no infirmity or illegality in the same.

5. Heard counsel for the parties and perused the documents on record.

6. Before drawing any conclusion regarding correctness or otherwise of the orders impugned, glance of the relevant provisions such as Section 12 of the Act of 2000 becomes necessitous, which is reproduced as follows:

“Section 12 : Bail of Juvenile. - (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 or 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 nay known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer in charge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.”

A bare reading of section 12 (1) makes it clear that 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. It further says that such person 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 or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

7. Similarly, Section 13 of the Act of 2000 reads as under:

“13. *Information to parent, guardian or probation officer.*- Where a juvenile is arrested, the officer incharge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after the arrest, inform-

(a) the parent or guardian of the juvenile, if he can be found of such arrest and direct him to be present at the Board before which the juvenile will appear; and

(b) the probation officer of such arrest to enable him to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of assistance to the Board for making the inquiry.”

8. In the case in hand, report of the probation officer says that the relations of the applicant with family members and the teachers are cordial, that his studious attitude is appreciated not only by his colleagues but teachers as well, and that he came to be involved in the incident just on account of ignorance. The report nowhere says that if the applicant is

released on bail, he would come into association with any known criminal or it would expose him to moral, physical or psychological danger or would it defeat the ends of justice.

9. Thus considering the facts and circumstances of the case and the report of the Probation Officer, present revision is allowed. Orders impugned are hereby set aside. Applicant is directed to be released on bail on his guardian or parents furnishing a bond in the sum of Rs. 10,000 with one surety for the like sum to the satisfaction of the concerned Juvenile Justice Board and also on filing an affidavit by him/her before the said Board to the effect that:

- (i) he shall be responsible for well-being of his son/the applicant,
 - (ii) he shall ensure that the applicant continues his studies and does not fall into bad company, and
 - (iii) he shall report to the concerned Juvenile Justice Board on **30.3.2016** and thereafter once in two months on the dates fixed by the Board regarding the progress made by his son/the applicant, till the applicant attains/completes the age of 18 years.
10. Revision allowed.

Sd/-
(Pritinker Diwaker)
Judge