

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1085 of 2015**

Suraj Das @ Durga S/o Gulab Das Aged About 16 Years R/o Village Lailunga, P.S. Lailunga, Distt. Raigarh, Chhattisgarh. Minor Through Gulabdas S/o Anand Dasd, Aged About 55 Years R/o Village Lailunga, P.S. Lailunga, Distt. Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, P.S. Lailunga, Distt. Raigarh, Chhattisgarh.

----Non-Applicant

For Applicant:	Shri Sanjeev Sahu, Advocate.
For Non-Applicant/State:	Shri B. Gopa Kumar, Dy. Advocate General.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

27.6.2016

1. The present revision has been preferred by the Applicant against the order dated 6.10.2015 passed by the Additional Sessions Judge (FTC), Raigarh whereby the revisional Court has rejected the revision preferred by the present Applicant against the order of the Juvenile Justice Board in Remand Case No.134/2015 denying bail to the Applicant.

2. Learned Counsel for the Applicant submits that the present Applicant is a Juvenile and is being tried for offence under Sections 363, 366 and 376 IPC and under Section 4 of Protection of Children from Sexual Offences Act, 2012 and is in jail since 10.8.2015. He further submits that as per Section 12 of the Juvenile Justice Act (Care and Protection) Act, 2015, the nature of the offence or the material evidence that has been brought by the prosecution is not to be seen for considering the bail application of a juvenile.

3. Learned Counsel for the Applicant further relies upon the judgment of this court in case of Dayasagar Yadav @ Sagar Vs. State of Chhattisgarh¹ 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.”

4. The said observations of the court was based upon the decisions rendered in case of Akhilesh Kumar Vs. State of Chhattisgarh² as well as judgment delivered by the MP High Court in case of Rahul Mishra Vs. State of Madhya Pradesh³.

5. 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 ten months and also considering the nature of offence and the ratio of law laid down in Dayasagar (Supra), this Court is of the opinion that the present is a fit case where he can be released on bail.

6. Accordingly, the Criminal Revision is allowed. The impugned order dated 6.10.2015 is set aside. It is directed that the Applicant shall be released

¹ 2011 (1) CGLRW-140

² 2006 (1) CGLJ 305

³ 2001 Cri.LJ 214

on bail on his and one of his guardians 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

Priya