

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 640 of 2016**

Aasim Ali @ Hasim Ali S/o Salim Ali Aged About 14 Years Minor Through Guardian Father Salim Ali S/o Late Ramjan, Aged About 48 Years, R/o Budhwari Bazar, Behind Computer College, Korba, Police Station Kotwali, Tahsil Korba, Civil And Rev. Distt. Korba Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Out Post C.S.E.B., Korba, Police Station Kotwali, District - Korba Chhattisgarh.

---- Respondent

Shri Dharmesh Shrivastava, counsel for the applicant/s.
Shri D.R.Minj, Dy.G.A. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****28/11/2016**

This revision is directed against order dated 29/06/2016 by which, the appeal of the applicant, a juvenile in conflict with law, has been dismissed affirming the order rejecting juvenile's application for grant of bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015').

2. Learned counsel for the applicant argues that the application of the applicant for grant of bail has been rejected without there being any material to show that his release would bring him in association with known criminals or would expose him to moral, physical or psychological danger or would otherwise defeat the ends of justice. He submits that the main operative reason for the Courts below to reject the application is gravity of offence which is not considered relevant while considering application for grant of bail under Section 12 of the Act of 2015.

3. On the other hand, learned State counsel submits that the applicant not only

committed rape on a minor girl but it has also been alleged that the applicant assaulted her also. Therefore, in these circumstances, the Courts below are justified in coming to the finding that in the event of his release, he may be exposed to moral, physical or psychological danger and may also come in association with known criminals which would defeat the ends of justice. Therefore, the bail application has been rightly rejected.

4. In the social investigation report, there is nothing to indicate that the release of the applicant will bring him in association with known criminals or may expose him to moral, physical or psychological danger or would otherwise defeat the ends of justice. The only basis to reach to this conclusion is the nature of allegation of offence of rape on a girl of 16 years of age. It is not a case where an assessment is required to be made as provided under Section 15 of the Act of 2015 because the applicant is less than 16 years of age. In the present case, without there being any material, the Courts below rejected the application for grant of bail.

5. It has to be noted that under the provisions of Section 12 of the Act of 2015 for grant of bail to a juvenile, gravity of offence would not be a ground, without there being any material to reject the application. Because in such cases, ordinarily, bail has to be granted. Gravity of offence itself cannot be said to be a material to come to a conclusion that in the event of his release, he may be exposed to moral, physical or psychological danger. Moreover, there is no material to show his likelihood to abscond, tamper with the prosecution witnesses or in any manner away from justice so as to say that grant of bail may defeat the ends of justice. Therefore, rejection of bail cannot be upheld and is therefore set aside.

6. The application under Section 12 of the Act of 2015 is allowed. The applicant shall be released on bail forthwith on furnishing a personal bond in the sum of Rs.10,000/- by the parents or guardians of the applicant, as the case may be, to the satisfaction of the Juvenile Justice Board for his appearance before the Board, as and when directed.

Sd/-
(Manindra Mohan Shrivastava)
Judge