

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 826 of 2016**

- Chandan Ramteke (Juvenile) S/O Bhuvan Ramteke Aged About 17 Years Through Natural Guardian Mother Bharti Ramteke, R/O Sanyasi Para, P.S. Khamtarai, District Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Collector, Raipur, Tahsil & District Raipur, Chhattisgarh.

---- Non-applicant

For Applicant	Shri J.K. Gupta, Advocate.
For Non-applicant/State	Shri U.K. S. Chandel, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****02.09.2016**

Heard learned Counsel for the Applicant and the Non-applicant.

2. The present Criminal Revision has been preferred challenging the order dated 03.08.2016 passed in Criminal Appeal No. 131/2016 by the Additional Sessions Judge (F.T.C.), Raipur. The Additional Sessions Judge vide the impugned order has affirmed the order of the Principal Judge, Juvenile Justice Board, Raipur rejecting the bail application on 16.06.2016 in Criminal Case No. 163 of 2016.

3. The present Applicant admittedly is a juvenile, aged about 17 years, and the Prosecutrix is also a juvenile aged about 15 years, were having love affair for a period for about 6 months. On account of an offence committed by

the Applicant of abducting the Prosecutrix and committing rape on her a criminal case No. 132/2016 was registered against him at police Station Khamtarai, District – Raipur. That the offences which have been charged against him are under Sections 363, 366, 376 IPC and also Section 4 of Protection of Children from Sexual Offences Act.

4. Learned Counsel for the Applicant submits that it is the case where the statement of the Prosecutrix itself reflects that she was in love with the present Applicant and Prosecutrix has voluntarily left the house without any use of force by the present Applicant with an intention to stay together for rest of their life.

5. The Counsel for the Applicant further submits that the act on part of the present Applicant has nothing to do with the intention of criminal mind but a folly of youth considering the age of the Applicant as well as the victim. Therefore, he may be enlarged on bail taking into consideration the provisions of Section 12 of the Juvenile Justice Act.

6. This court in case of **Dayasagar Yadav @ Sagar Vs. State of Chhattisgarh**¹ in para -6, 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

1 2011 (1) CGLRW-140

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.”

7. The said observations of the court was based upon the decisions rendered in case of **Akhilesh Kumar Vs. State of Chhattisgarh**² as well as judgment delivered by the MP High Court in case of **Rahul Mishra Vs. State of Madhya Pradesh**³. When we look into the nature of offence it would clearly indicate that, the present case does not fall in any of the exceptions carved out under Section 12 of the Act for denying bail.

8. Considering the total facts and circumstances particularly the nature of offence and the ratio of law laid down in **Dayasagar (Supra)**, and the other judgments referred herein above it is a fit case where the applicant can be released on bail.

9. Accordingly, the Criminal Revision is allowed. The impugned order dated 03.08.2016 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

2 2006 (1) CGLJ 305

3 2001 Cri.LJ 214