

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.1087 of 2016**

- Chowa Joshi S/o Ashok Joshi Aged About 17 Years Through Natural Guardian Father Ashok Joshi, R/o Village Barbanda, Police Station Vidhansabha, Tahsil & District Raipur, Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh Through The District Magistrate Raipur, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri K. P. Gupta, Advocate
For Respondent/State	:	Shri D. R. Minz, Dy.GA

S.B. : Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****14/12/2016**

This revision petition arises out of order dated 05-11-2016 passed in appeal, whereby the order dated 03-10-2016 passed by the Juvenile Justice Board, rejecting juvenile's application for grant of bail has been affirmed.

2. The applicant has been apprehended and kept in the Observation Home on the allegation of having committed offence under Section 363, 366, 376 of IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012. Allegation against the applicant is that the applicant kidnapped a minor girl and went along with her to different places and then it is alleged that he married with the said girl and thereafter, committed sexual intercourse.

3. Learned counsel for the applicant submits that even though, the social investigation report does not show any material for rejection of bail application

on any of the ground mentioned under Section 12 of the Juvenile Justice (Care and Protection) Act, 2015 (In short “the Act of 2015”) by merely reproducing the provisions of the Act of 2015 and the application for grant of bail has been rejected on the main operative reason of gravity of offence.

4. On the other hand, learned State counsel opposes the application for grant of bail on the submission that looking to the nature of allegations and the offence alleged to be committed was that the applicant kidnapped a minor girl and marriage was performed with her and thereafter, committed sexual intercourse, if bail is granted to the applicant, ends of justice would be defeated.

5. After considering the submission of learned counsel for the parties and the impugned order, I am of the opinion that the Court below have rejected the application for grant of bail, ignoring the statutory mandate of Section 12 of the Act of 2015.

6. This Court in the case of ***Shani vs. State of Chhattisgarh***¹, has held that the gravity of offence is not a ground for rejecting application for grant of bail by the Juvenile and unless there are material on record to make out a case for grant of bail would bring the juvenile in association with known criminal or expose him to moral, mental or psychological danger or likely to defeat the ends of justice, ordinarily, juvenile has to be granted bail.

7. In the present case, though, the learned lower appellate Court has recorded a finding that in the event of grant of bail, ends of justice would be defeated, there is no such material which compelled the lower appellate Court to draw such a conclusion and is absent in the order itself. Therefore, it appears that only swayed by the gravity of allegation and nothing more, learned Courts below have rejected the bail application, this approach is not correct and against

¹ CRR No.429 of 2016, decided on 04-11-2016

the mandate of law. In several decisions including the decision in the case of ***Shani*** (supra), this Court, after taking into consideration the various decisions passed by this Court and other Courts, has clearly held that unless any of the three grounds enumerated under Section 12 of the Act of 2015, ordinarily, the bail will have to be granted to a juvenile. The social investigation report placed before this Court does not reveal any material that in the event of grant of bail, ends of justice is likely to be defeated. Therefore, in these circumstances, revision has to be allowed.

8. In view of above consideration, impugned orders passed by the Courts below cannot be sustained and are therefore, set aside. Accordingly, the criminal revision is allowed. The applicant shall be released on bail forthwith on furnishing a personal bond in the sum of Rs.10,000/- by the mother or father 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