

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1158 of 2016**

Digeswer Pal S/o Shri Jitendra Pal, Aged About 17 Years Through
His Legal Guardian His Father Jitendra Pal, Aged About 45 Years,
S/o Late Shri Jaikaran Singh Pal, R/o Village Mohadi, Police
Station Kharora, Raipur, District (Revenue & Civil) Raipur,
Chhattisgarh. **---- Applicant**

Versus

State Of Chhattisgarh Through District Magistrate, Raipur, District
Raipur, Chhattisgarh. **---- Respondent**

For Applicant	:	Mr. Rakesh Thakur, Advocate
For State	:	Mr. B. Gopa Kumar, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/01/2017**

Heard.

1. This revision arises out of order dated 09.12.2016 by which applicant's appeal against rejection of his bail application under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015') has been rejected.

2. Learned counsel for the applicant argued that the background of the incident is an affair between the applicant and the prosecutrix both of them are minor. He submits that manner and circumstances in which the applicant is alleged to have been committed offence under Section 363, 366, 376 of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 and Section 3(1)(12) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, does not make out a case to hold that the applicant in the event of grant of bail, his release is likely to expose him to moral, physical and psychological danger. It is next contended that without any material it has been held that the grant of bail is likely to defeat the ends of justice. As the applicant is a juvenile, he is entitled to grant of bail under statutory mandate of Section 12 of the Act of 2015 except on specified exceptional circumstances mentioned in the provision itself, for which, there is no material.

3. On the other hand, learned State counsel submits that the application of the applicant has been rejected on the ground that grant of bail is likely to defeat the ends of justice which is one of the ground for rejection of application under Section 12 of the Act of 2015, therefore, the appeal has been dismissed.

4. The material on record of the case diary shows that the applicant and prosecutrix had an affair. Both are the minor which the circumstances that there are stated to have committed sexual intercourse. The social investigation report and other material on record does not show that in the event of grant of bail, his release is likely to expose him to moral, physical and psychological danger, or would bring him in association with any known criminals or would otherwise defeat the ends of justice.

5. The operative reason for rejection of bail has been that the release of the applicant is likely to defeat the ends of justice. However, on what basis, this conclusion was arrived at, is not mentioned in the impugned order. I have gone through the case diary and I have perused the social investigation report. There is nothing to show that in the event of grant of bail, the applicant is likely to abscond or tamper with the prosecution witnesses or in any manner affect fair trial of case pending before the Juvenile Justice Board. Therefore, in the opinion of this Court, the Courts below not justified in rejecting the application for grant of bail. It is well settled that the grant of bail under Section 12 of the Act of 2015 to juvenile is a statutory mandate and denial would be justified only in specified circumstances made out as provided in the provision itself.

6. In view of the above, the impugned order is set aside. 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 either father or mother of the applicant, to the satisfaction of the Juvenile Justice Board for his appearance before the Board, as and when directed.

7. The revision is accordingly allowed.

Sd/-

(Manindra Mohan Shrivastava)
Judge