

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 42 of 2017

Chhabilal Banjare S/o Jagannath Banjare Aged About 17 Years R/o Village Nawapara, Tah. Simga, P.S. Suhela, Civil & Rev. District Baloda Bazar Bhatapara, Chhattisgarh. Through Natural Guardian Mother Smt. Shakun Bai, W/o Jagannath Satnami, Aged 42 Year R/o Nawapara, Simga, P.S. Suhela, Civil & Rev. Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate Baloda Bazar, In The Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

Shri Janak Ram Verma, counsel for the applicant/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/03/2017

This revision is directed against order dated 08/12/2016 passed by the Second Additional Sessions Judge, Baloda Bazar dismissing the appeal of applicant / Juvenile and affirming the order of rejection of his bail application under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act of 2000').

2. Learned counsel for the applicant submits that while rejecting the bail application and appeal both, the Courts below have not kept in view the statutory mandate provided under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015') which mandates grant of bail to a juvenile as a matter of course except when there are material to show that the release would bring the juvenile in association with known criminals or expose him to moral, physical or psychological danger or release is likely to defeat the ends of justice. It is submitted that there are no such material warranting denial of grant of bail. Therefore, the applicant ought to be granted bail. It is further submitted that

the prosecutrix herself has stated in her statement under Section 161 CrPC that she and the applicant had an affair and it is not a case where the applicant committed sexual intercourse against the wishes of the girl. It is also submitted that the Social Investigation Report also does not show anything to warrant rejection of this application.

3. On the other hand, learned State counsel opposes prayer and submits that the Social Investigation Report shows that the applicant's family is not financially strong and the applicant is also involved in earning. It is also submitted that the manner in which the applicant entangled with the minor girl and committed sexual intercourse shows that the applicant, in the event of grant of bail, is likely to be exposed to psychological danger. Therefore, the bail application has been rightly rejected.

4. Grant of bail to a juvenile could be rejected only on exceptional circumstances enumerated in Section 12 of the Act of 2015. If those circumstances do not appear from the material on record, in such case, grant of bail to a child, in conflict with law is mandatory under the law. The Courts below have rejected the bail application relying mainly on the poor financial conditions of the applicant's parents and that he is getting good education in the observation home. There does not appear to be any material examined by the learned Court below nor discernible from the records of the case diary including the social investigation report to come to the conclusion that in the event of grant of bail, the applicant is likely to come in association with known criminals or exposed to moral, physical or psychological danger. The applicant is not likely to abscond or tamper with the prosecution witnesses. Therefore, in these circumstances, there is no extraordinary reason for denial of grant of bail as per mandatory provision under Section 12 of the Act of 2015. Therefore, I am inclined to allow this application.

5. Accordingly, this 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 parents (either father or mother) of the applicant, as the case may be, to the satisfaction of the Juvenile Justice Board on appropriate terms and conditions.

Sd/-
(Manindra Mohan Shrivastava)
Judge

