

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 210 of 2017

Shekhar @ Ballu Dhivar S/o Kewalram, Aged About 17 Years R/o
Kura, Police Station Dharsiwa District Raipur Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh Through Police Station Dharsiwa District
Raipur Chhattisgarh

---- Respondent

For applicant - Smt. Fouzia Mirza, Advocate.

For Respondent/State –Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

29/06/2017

1. This revision is against the order dated 19/01/2017 passed by the 7th Additional Sessions Judge, Raipur in Criminal Appeal No.263/2016 wherein the appellate court has affirmed the order dated 28/11/2016 whereby an application for grant of bail to the applicant was cancelled in Crime No.370/16 under Section 302/34 of IPC registered at Police Station Dharsiva.

2. Brief facts of this case are that FIR was lodged on 14/10/2016 after death of one Mohit Kumar Dhivar that on 11/10/2016 during festival of Dussehara cultural programme in the village was going on and deceased Mohit Kumar Dhivar was also there to see the programme. At about 1'O clock the persons who were performing the programme objected to the fact that deceased went inside the green room and raised alarm and asked people to take him out. Thereafter the mob, which was there took out the deceased and he was beaten and the applicant was one of them. Eventually Mohit Kumar Dhivar died on 14/10/2016. Thereby, offence is committed.

3. Learned counsel for the applicant would submit that the applicant is

juvenile. She submits that as per statement of Laxmi Narayan and Rohit Kumar Dhivar who are eye witness no substantial allegation is attributed to the present applicant and only he was present in the mob and omnibus general allegations have been attributed to him. It is further stated that Section 3 sub-section 12 of the Juvenile Justice (Care and Protection of Children) Rules lays down principle that principle of institutionalization should be measure of last resort and in this case considering the role played by the applicant and social investigation report also do not go against him, the applicant is juvenile and is apprehended since 15/10/2016, therefore he may be extended benefit of bail.

4. Learned State counsel opposes the prayer for grant of bail.

5. Perused the case diary and the documents as also statement of the witnesses wherein it shows that during programme which was going in the village over some dispute deceased was beaten by different persons. Social investigation report and case diary suggests the back ground of the incident as has happened while cultural programme was going on and some indecent act was done by deceased and it was retaliated by the audience. The social investigation report points out the incident took place mainly because of the fact that elder persons present in the programme did not intercepted behaviour of the boy and tried to control the mob. The report further shows that behaviour of applicant is good with his family members and no report is made he is in touch with other known criminal or in contact of any bad company. Considering the same, report do not suggest that on release of applicant there is likelihood to bring the applicant in association with any known criminal or will expose him to moral, psychological and physical danger and if released would not defeat the ends of justice. Considering such social investigation report and role played by the applicant, I am inclined to allow this revision and release the

applicant on bail.

6. Consequently, revision is allowed and order dated 19/01/2017 is set aside. It is directed that the applicant shall be released on bail on furnishing a surety of Rs.25,000/- which is to be of his father to the satisfaction of the concerned Juvenile Justice Board, for his appearance as and when directed.

Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE