

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 252 of 2017

Shivdutt @ Shivdas Sahu, S/o. Ghanshyam Sahu (Dewar), Aged About 17 Years, R/o. Subhash Nagar, Dewar Dera, Police Station Telibandha, Raipur, District Raipur, Chhattisgarh, Through Natural Guardian (Father) Ghanshyam Sahu.

---- Applicant

Versus

State Of Chhattisgarh, Through District Magistrate Raipur, District Raipur, Chhattisgarh

---- Respondent

For Applicant : Mr. Vivek Tripathi, Advocate

For Respondent : Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

30.08.2017

Heard

1. The instant revision is against the order dated 15.02.2017 passed in Criminal Appeal No.40/2017 by the learned Additional Sessions Judge, F.T.C., Raipur, District Raipur (C.G.). By such order, the rejection of bail by the Juvenile Justice Board dated 19.01.2017 of the juvenile was affirmed.
2. The brief facts of this case are that on 16.10.2013 after the immersion of Durga idol, two of the group of people landed into quarrel and scuffle over distribution of rice during the festival. Consequently, the applicant alongwith other co-accused assaulted one Vishal, Govinda & Birju by rod and wooden club. Initially, Birju was severely injured thereafter eventually he succumbed to death. Therefore, the case which was registered initially under Section 307 read with Section 147, 148 & 149 was further converted under Section 302 of I.P.C.

3. Learned counsel for the applicant would submit that in the instant case, the other co-accused have been enlarged on bail for the reason that the assault has been attributed to Hukumat, Hallu & Sunny and the present applicant who was in the crowd has been falsely implicated. He further submits that instructions have been obtained that the grand-mother will take care of the juvenile child and the applicant is in captivity since 06.07.2016, therefore, he may be enlarged on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the social investigation report. The social investigation report suggests that the present applicant, a minor, used to work hard to earn livelihood for his family. It also records that by picking up the polythene bags earning is made. The social investigation report also suggests that after death of mother of the applicant, father of the boy/applicant has performed second marriage and the incident happened in the atmosphere of provocation. The social investigation report further suggests since there was a division in the family members being they belong to lower income, they are away from the education and there is no likelihood that the applicant may come in contact with the known criminals and there has been likelihood also that the release will expose the applicant to moral, physical or psychological danger. Further, the statement of Rani Markam was perused, it appears that allegation is attributed to Hukumat, Hallu & Sunny. Considering the totality of the case and the fact that release of the applicant would not defeat the ends of justice, I am inclined to release the present applicant on bail. Consequently, both the orders passed by the learned

Courts below i.e. order dated 15.02.2017 and order dated 19.01.2017 are set aside.

6. In the result, the revision is allowed and it is directed that the applicant shall be released on bail on furnishing a surety of Rs.25,000/- by his grand-mother 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