

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 284 of 2017

Harish Sahu, S/o. Punau Sahu, Aged About 16 Years, R/o. Village Bhansoj, Police Station Arang Raipur, District Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station- Arang, District Raipur, Chhattisgarh

---- Respondent

For Applicant : Mr. N Naha Roy & Mr. B.L.Sahu, Advocates

For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

08.09.2017

Heard

1. The instant revision is against the order dated 15.02.2017 passed in Criminal Appeal No.42/2017 by the learned Additional Session Judge, F.T.C., Raipur (C.G.). By such order, the rejection of bail by the Juvenile Justice Board dated 18.01.2017 of the juvenile was affirmed.
2. The brief facts of the prosecution case are that one Rambati Sahu lodged a report on 19.12.2016 that her grand-daughter who was aged about 5-6 years was playing outside came back and crying at about 12 O'clock and on having asked, the victim stated that the present applicant offered her Biscuit & Nadda and took her to his house and thereafter she made to lie her down and opened her undergarment and thereafter committed sexual overt act and subsequently gave her Biscuit and asked her to go back. The report was lodged and offence under Section 376 of I.P.C. and Section 4 & 6 of POCSO Act, 2012 was registered.

3. Learned counsel for the applicant would submit that the social investigation report finds support in favour of the applicant to release him. He further submits that the applicant admittedly was minor on the date of incident and he is in captivity since December, 2016; therefore, no purpose will be served to keep him in captivity. It is further submitted that infact the rape was not committed by the present applicant.
4. Per contra, learned State counsel opposes the prayer.
5. Perused the case diary, social investigation report and also the assessment which was carried out of the applicant. The case diary would show that the victim was aged about 5 years and she was examined and it was opined by Doctor that though there was no recent sign of genital injury, the sexual violation cannot be ruled out. The assessment which was carried out under Section 15 of the Juvenile Justice (Care & Protection of Children) Act, 2015 also suggests that the mental & physical condition of the applicant was normal and he is aware of the development in the society. The report further suggests that wherein the applicant stays, in such locality, the intoxication i.e. smoking, drinking and consuming cannabis are rampant and in the evening always the dispute took place, therefore, the atmosphere is not good. The social investigation report suggests that in absence of proper guidance, the incident has happened, which is coupled and aggravated by watching the adult films on mobile. The report suggests that if the child is released, he may not come in contact with the known criminal, at the same time, it also suggests that social atmosphere wherein the child is living is not proper.

6. Considering the entire facts together and taking into the age of the girl, which is stated to be five years and further taking into fact that the social investigation report suggests that atmosphere of the village wherein the applicant is living is not proper, in the opinion of this Court, release may defeat the ends of justice. Consequently, it is in the interest of the applicant that he may make further improvement, there may be psychological and physical improvement while staying in the children home and his release may further jeopardise his interest. Consequently, I am not inclined to release the present applicant.
7. In view of the above, the revision is dismissed.

Sd/-
(Goutam Bhaduri)
Judge