

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 296 of 2017

- Aditya Kumar @ Som Harijan (Juvenile) S/o Rajkumar Harijan, Aged About 15 Years Through His Legal/ Natural Guardian Father Rajkumar Harijan, S/o Mangalram Harijan, Aged About 48 Years S/o Village Madhala, Post Office, Police Station & Tahsil Sonhat, District Koriya Chhattisgarh --- **Petitioner**

Versus

- State of Chhattisgarh through the District Magistrate, Baikunthpur, District - Koriya Chhattisgarh --- **Respondent**

For the applicant	:	Mr. Shrawan Agrawal, Advocate
For the State	:	Mr. Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

22.08.2017

1. This revision is against the order dated 15.02.2017 passed by the learned Additional Sessions Judge (FTC), Baikunthpur, District-Koriya in Criminal Appeal No. 09/2017 whereby the bail rejection order dated 09.02.2017 passed by the Juvenile Justice Board, Baikunthpur has been affirmed.
2. As per the case of prosecution, on a report made against the applicant, a case was registered u/s 376 (2) (f) of I.P.C. & sections 4, 5 (n)(o), 6, 9(m)(n) & 10 of the Protection of Children From Sexual Offences Act, 2012 stating that on 01.02.2017 the applicant showed certain film to the girl in the mobile and thereafter took her to the toilet room of the school and then committed forceful sexual intercourse. Subsequently, the girl was reported such incident to the mother and on report being made the investigation commenced.
3. Learned counsel for the applicant would submit that actually

no rape has been committed, the hymen of the girl was intact and the applicant is a student of Class-X and is suffering from epilepsy and it is difficult to treat him in custody.

4. The State was directed to call for the social investigation report.
5. Perused the case diary and the social investigation report.
6. The case diary contains medical examination report of the victim aged about 7 years which shows that the hymen membrane is intact and there was presence of injury on the vaginal part. The social investigation report shows that as many as five family members are there and the behaviour of the applicant toward the family members are reported to be satisfactory and the neighbors have also suggested that the nature of the boy is normal. The psychological impact of the boy has been reported to be weak and it is also stated that physically the boy is weak and is victim of frequent attacks of epilepsy which he is suffering and because of epilepsy, the boy has mentally suffered. The suggestion in the social investigation u/s 12 further shows that no other criminal antecedents are reported against the applicant and without much intention and mensrea the act was committed and it was stated that both the victim and applicant were watching the film in a mobile, thereafter the incident took place. The social investigation report suggests that because of the frequent epilepsy attacks, he is required to be admitted in the hospital and taking into such disease, he may be released on bail to the custody of father for the betterment of his future. It further suggests that if the applicant is released on bail, he may not come into contact with any

known criminal but in case his release is being delayed, it will adversely affect the physical, moral and psychological conditions of the applicant, therefore, it would be appropriate to hand over the applicant to the custody of his father.

7. Considering the facts and circumstances of the case as well as the Social Investigation Report which shows that the applicant is victim of frequent attacks of epilepsy and if there is delay in releasing him, there will be moral physical and psychological danger. Taking into such social investigation report, I am inclined to release the applicant on bail.
8. Accordingly, the revision is allowed and the orders of the court below are set aside. It is directed that the applicant shall be released on bail on furnishing a surety in sum of Rs.25,000/- on behalf of the applicant by the father/natural guardian.

**Sd/-
GOUTAM BHADURI
JUDGE**