

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No.1163 of 2016

- Komal Mulanker @ Chotu S/o Shri Manohar Rao Mulanker Aged About 17 Years (Wrongly Written In The Order Sheet) Through His Legal Guardian His Mother Shakuntala Mulanker Aged 55 Years W/o Manohar Rao Mulanker R/o Ashoka Vihar Colony Road No. 3 Police Station Civil Lines Pandri Tarai Raipur District (Revenue & Civil) Raipur Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through District Magistrate Raipur District Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Shri Yogesh Pandey, Advocate
For Respondent/State	:	Shri B. Gopa Kumar, Dy.AG

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

25/01/2017

This revision petition arises out of order dated 15-11-2016 passed in appeal, whereby the order dated 19-10-2016 passed by the Juvenile Justice Board, rejecting juvenile's application for grant of bail has been affirmed.

2. The applicant has been apprehended and kept in the Observation Home on the allegation of having committed offence under Section 363, 366, 376 of IPC and Section 5 & 6 of the Protection of Children from Sexual Offences Act, 2012. Allegation against the applicant is that the applicant kidnapped a minor girl and thereafter, committed sexual intercourse. It is alleged that on number of occasions, the applicant committed sexual intercourse with the prosecutrix and he took the prosecutrix to some other places until the prosecutrix and the applicant recovered from the premises of temple.

3. Learned counsel for the applicant submits that while rejecting application for grant of bail, the Courts below have not kept in view the statutory mandate of Section 12 of the Juvenile Justice (Care and Protection) Act, 2015 (In short “the Act of 2015”). He submits that without there being any material to arrive at satisfaction that the grant of bail would bring the juvenile in association with known criminal or expose him to moral, mental or psychological danger or likely to defeat the ends of justice, the application for grant of bail could not be rejected.

4. On the other hand, learned State counsel opposes the application for grant of bail on the submission that the Courts below have rejected the application taking into consideration the background in which incident happened and nature of overt act committed by the applicant with young girl and also on prima facie satisfaction of applicant suffering from criminal bent of mind and morally corrupt as also lack of proper guidance.

5. The social investigation report shows that the applicant is having some bad habits but it does not mean that in the event of grant of bail, the applicant would come in association with known criminal or expose him to moral, mental or psychological danger or likely to defeat the ends of justice.

6. In view of above consideration, impugned orders passed by the Courts below cannot be sustained and are therefore, set aside. Accordingly, the criminal 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 mother or father of the applicant, as the case may be, to the satisfaction of the Juvenile Justice Board for his appearance before the Board, as and when directed.

SD/-
(**Manindra Mohan Shrivastava**)
Judge