

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1041 of 2017**

Rajesh Rajwade S/o Shri Parmeshwar Rajwade, aged about 17 years (Minor), through the natural guardian i.e. mother Smt. Kaushilya W/o Shri Parmeshwar Rajwade, aged about 37 years R/o Village- Barandi, Police Station- Bhatgaon, Tahsil- Bhaiyathan, Distt. Surajpur (C.G.).

--- Applicant**Versus**

State of Chhattisgarh, Through Station House Officer, Police Station- Odgi, Distt. - Surajpur (C.G.).

---- Respondent

For Applicant	:	Mr. Pushpendra Kumar Patel, Advocate
For Respondent	:	Mr. Arvind Shukla, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**03/08/2018**

1. This revision has been preferred under Section 102 of the Juvenile Justice (Care and Protection of Children), Act 2015 (in short 'the Act 2015') against the judgment dated 26/10/2017 passed by the Additional Sessions Judge, Surajpur (C.G.) in Criminal Appeal No. 45/2017, whereby the Additional Sessions Judge has rejected the appeal arising out of the order dated 11/10/2017 dismissing his bail application passed in Criminal Case No. 74/2017 by the Juvenile Justice Board, Surajpur.
2. As per prosecution story on 13/07/2017, one- Purshottam intimated the police of Police Station, Odgi that near Kosa Badi Nursery, a dead

body was found in the pit and maggots had found in the body. On the basis of said information, merger intimation was recorded. It was found that the dead body was of Jugeshwar Rajwade husband of co-accused- Sarita Rajwade. It is also alleged that co-accused, Sarita Rajwade was having an illicit relation with one- Devpal, which had come to the knowledge of her husband. Devpal also used to harass her wife. It was also alleged that Sarita Rajwade along with other co-accused and present applicant made a conspiracy to kill her husband. And on 07/08/2017 Yogesh, Kishan and the present applicant- Rajesh called the deceased and killed him altogether and thrown his body in the forest. It was also alleged that the present applicant assaulted the deceased by Tangi and murdered him. The applicant was arrested on 19/07/2017. The applicant filed an application under Section 12 of the Act, 2015 before the Juvenile Justice Board, Mungeli which was dismissed. Against the said dismissal, an appeal was preferred which was also dismissed. Hence this revision.

3. Learned counsel appearing on behalf of the applicant submits the applicant is innocent and has been falsely implicated in the present case. He further submits that as per Section 12 of the Act 2015, for the purpose of releasing the applicant on bail, the gravity of the offence is not to be seen. It is also submitted that both the Courts below have not disclosed anything so far as the merits of the case is concerned. He further submits that the applicant is in custody since 19/07/2017 and the social investigation report does not suggest that on his release, he will come in contact with any known criminal or there would be danger to his psychological and physical state of mind.

Therefore, he may be extended the benefit of bail.

4. Learned Counsel appearing for the State opposes the prayer for grant of bail on the ground that taking into consideration the nature of offence committed by the offenders, it is not a fit case where the applicant be enlarged on bail. He further submits that the report of the probationary officers, who has given the report, states that the applicant and other co-accused has committed the alleged offence.
5. I have heard Learned Counsel appearing for the parties.
6. Before considering the case of the applicant it would be appropriate if Section 12 (1) of the Act of 2015 is taken into consideration and for ready reference the same is being reproduced hereunder:

"Section 12: (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or place under the supervision of a probation officer or under the care of any fit person;

Provided that such person shall not be so released if there appears reasonable grounds for believing the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

7. A plain reading of the said section by itself gives a clear indication that under the normal circumstances as a matter of routine, in case an accused person happens to be a juvenile and is arrested, detained and is brought before the Board, such person notwithstanding anything contained in either Code of Criminal Procedure or under any other special law which is in force should be released on bail. But at the

same time the latter part of Sub Section 1 of Section 12 clearly envisages the fact that in a given factual background of a case if it appears to the Court that the releasing of the said juvenile can bring him into the association of the company with which he landed himself in the remand home or he may get exposed to moral and psychological danger as also exposing himself to physical danger, the juvenile may not be released. That means, in the event the circumstances surrounding the juvenile shows that upon his release from the observation home can lead to exposing the juvenile to both moral as well as psychological danger, the Court may refuse to release the juvenile on bail.

8. In the instant case also taking into consideration the report of the Probationary Officer that the applicant with the association of co-accused Savita Rajwade committed the crime in question, therefore, in the opinion of this Court, if the applicant is released on bail, there is all chances of his coming into association with known bad company which would further expose him to moral as well as psychological danger and if that happens on his release, then the ends of justice would get defeated.
9. For the aforesaid reasons, this Court is of the opinion that the findings given by the Courts below does not warrant any interference at this juncture and the present case does not fall within the ambit of Section 12 of the Act, 2015, but would fall within the exception carved out in the said section.
10. Accordingly, no good case has been made out for allowing the instant

Criminal Revision calling for interference with the order under challenge.

11. The Criminal Revision being devoid of merit, the same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul