

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1074 of 2018**

Rahul Tiwari Aged About 17 Years Through Father/ Natural Gardian- Rajesh Tiwari, R/o- Ward No. 13, Nagar Panchayat Sakari, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Sakri, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Anurag Jha, Advocate.
For the Respondent/State : Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****07.09.2018**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 207 of 2018, registered at Police Station – Sakri, District – Bilaspur, Chhattisgarh for the offences punishable under Sections 457 and 380/ 34 of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is a juvenile offender under the provisions of Juvenile Justice (Care & Protection of Children) Act, 2015 (for short 'Juvenile Justice Act, 2015') and he is entitled to be benefited with

grant of bail. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that it is a case of offence of theft in which there is direct allegation on the basis of the statement given by the eyewitness against the applicant. Investigation has to be made for recovery of the stolen articles. Hence, grant of anticipatory bail in such a case shall frustrate the proceedings of the investigation. Hence, no case is made out for grant of anticipatory bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. Named FIR has been lodged against the applicant about committing the offence of theft of some utensils, camera, cash and mobile from the house of complainant – Vinod Kumar Kori. Hence, this case.

7. After considering all the facts and circumstances of the case, it appears that in this case if the applicant is granted anticipatory bail the investigation shall be frustrated. Hence, for these reasons, I do not feel inclined to grant anticipatory bail to the applicant.

8. At this juncture, learned counsel for the applicant prays that some directions may be issued to the concerned Court for grant of bail in accordance with the provisions under Section 12 of the Juvenile Justice Act, 2015, for the reason that in normal practice which is going on, Juvenile Justice Board does not enlarge on bail any juvenile offender before the

report is received from the Probation Officer, which takes sometime for release of the juvenile offender on bail.

9. Considered the submissions made in this respect. The provisions under Section 12 of the Juvenile Justice Act, 2015 deals with the release of a juvenile on bail which does not speak of any such requirement neither the Model Rules, 2016 framed, speak of any specific requirement of the report of the Probation Officer or Child Welfare Officer for granting bail to the child in conflict with law. There may be same case where the Boards feel it necessary to consider the report of the Probation Officer or Child-Welfare Officer, before allowing the bail application, then the jurisdiction of any Juvenile Justice Board is not taken away with respect to granting interim bail to the child in conflict with law before the receipt of such report and the final order is passed, in the application for grant of bail.

10. With the aforesaid observations, the application for grant of anticipatory bail is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge