

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 1066 of 2017**

Bhupendra Sahu S/o Shri Bhagwat Sahu, aged about 17 years, through natural legal guardian father Bhagwat Sahu S/o Lalram Sahu, aged about 50 years R/o Village- Bhanpuri, Raipur, Tahsil & District Raipur (C.G.).

---- Applicant

Versus

State of Chhattisgarh Through District Magistrate Bemetara, District Bemetara (C.G.).

---- Respondent

For Applicant	:	Ms. Seema Singh, Advocate
For Respondent	:	Mr. Rajkumar Jaiswal, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

05/02/2018

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 order dated 13/10/2017 passed by the Additional Sessions Judge, Bemetara, District- Bemetara (C.G.) in Criminal Appeal No. 65/2017, by which the Additional Sessions Judge has rejected the appeal arising out of the order dated 14/09/2017 dismissing his bail application passed in Criminal Case No. 57/2017 by the Juvenile Justice Board, Bemetara.
2. Brief facts of the case are that a charge-sheet under Sections 457, 380, 411/34 of IPC has been filed before the Juvenile Justice Board, Bemetara alleging that the present applicant along with co-accused

entered into the shop and theft mobile photo cameras, chargers, mouse, key board, valued of Rs. 85,000/- and Rs. 10,000/- cash all in total Rs. 95,000/-.The applicant filed an application under Section 12 of the Act, 2015 for his bail 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 that the applicant is a juvenile and he is in custody since 01/08/2017. It is further submitted that charge-sheet has already been filed and 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.
5. I have heard Learned Counsel appearing for the parties and perused the social investigation report and other material available on record.
6. Perusal of the impugned order dated 13/10/2017 shows that the age of the present applicant may be about 18 years. Order sheet dated 21/09/2017 of Juvenile Justice Board reflects that regarding age, some medical inquiry is pending. In Aadhar Card and Birth Certificate of the applicant, the date of birth is mentioned as 29/12/1999. Learned counsel for the applicant submitted that the actual date of birth of the applicant is 29/12/1999, which, however, by mistake has been shown as 29/02/1999 in Progress Report of Class-V of the applicant and the

said mistake later on was corrected.

7. From the above, it seems that the date of birth of the applicant would have been 29/12/1999, therefore, prima-facie his age appears to be below 18 on the date of incident.
8. Before drawing any conclusion regarding correctness or otherwise of the orders impugned, glance of the relevant provisions such as Sections 12 & 13 of the Act of 2015 becomes necessitous, which are reproduced as follows:-

“12. Bail to a person who is apparently a child alleged to be in conflict with law.-- (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 placed 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 that 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 of the person's release would defeat the ends of justice, and the Board shall record the reason for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the

person, as may be specified in the order.

(4) When a child is conflict with law is unable to fulfill the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.

13. Information to parents, guardian or probation officer.-- *(1) Where a child alleged to be in conflict with law is apprehended, the officer designated as Child Welfare Police Officer of the police station, or the special juvenile police unit to which such child is brought, shall, as soon as possible after apprehending the child, inform--*

(i) the parent or guardian of such child, if they can be found, an direct them to be present at the Board before which the child is produced; and

(ii) the probation officer, or if no probation officer is available, a Child Welfare Officer, for preparation and submission within to weeks to the Board, a social investigation report containing information regarding the antecedents and family background of the child and other material circumstances likely to be of assistance to the Board for making the inquiry.

(2) Where a child is released on bail, the probation officer or the Child Welfare Officer shall be informed by the Board."

9. In the case in hand, the report of Probation Officer does not suggest that released of the Applicant would expose him to moral, psychological and physical danger. The report also does not suggest that on release of the Applicant, there is likelihood of bringing him in association with any known criminal and his release would defeat the ends of justice.
10. Considering the nature of allegation, facts of the case and the fact that the Applicant is in custody since 01/08/2017 and the charge-sheet has already been filed, I am inclined to allow this revision and release the Applicant on bail.

11. Consequently, the revision is allowed and the impugned judgment dated 13/10/2017 is set-aside. It is directed that the Applicant shall be released on bail on furnishing two sureties each of Rs. 25,000/- to the satisfaction of the concerned Juvenile Justice Board for his appearance before the Board as and when directed by the said Board.

Sd/-

(Arvind Singh Chandel)
Judge

Rahul