

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.620 of 2019**

- Rakesh Bharti, S/o Late Ajay Bharti aged about 17 years, R/o Village- Rawan, P.S. City Kotwali, Baloda Bazar, District Baloda Bazar Bhatapara (C.G.)

Through Guardian (Grand Father) Ganga Prasad Bharti, S/o Jokkar Bharti aged about 56 years, R/o Village Rawan, P.S. City Kotwali, Baloda Bazar, District- Baloda Bazar- Bhatapara (C.G.)

---- Applicant

Versus

- State of Chhattisgarh through S.H.O., P.S. Bhatapara (Rural) Baloda Bazar, District- Baloda Bazar Bhatapara (C.G.)

---- Respondent

For Applicant	:	Shri Ravindra Sharma, Advocate.
For Respondent/State	:	Shri Rahul Mishra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey
Order on Board

15/07/2019

1. The present revision has been preferred under Section 102 of Juvenile Justice (Care and Protection of Children) Act, 2015 (in short 'the Act 2015') against the order dated 26.04.2019 passed in Criminal Appeal No. 39/2019 by the First Additional Sessions Judge(FTC), Balodabazar District Balodabazar (C.G.), whereby the learned Sessions Judge has rejected the appeal arising out of order dated 03.04.2019 passed in Crime No. 114/2019 dismissing the bail application of the present applicant by the Principal Magistrate, Juvenile Justice Board, Balodabazar.

2. This is the revision petition filed by the accused, who is juvenile. The prosecution story in brief is that prosecutrix made written complaint on 12.03.2019 stating that on 06.03.2019 at about 10:30 PM when she went for urination, applicant came to her and said to go along with him. In spite of her refusal he forcefully took the prosecutrix near Ambuja cement Factory, raped her and repeated the same till the next three days. On 09.03.2019 he took her in a field and again committed sexual intercourse. Somehow, the prosecutrix ran away from there and narrated the whole story to her mother and lodged an FIR against the applicant. On the date of occurrence the present applicant being juvenile. He was sent to juvenile home on 01.04.2019. He filed an application under Section 12 of the Juvenile Justice Act for granting bail which was dismissed. Against the said dismissal, an appeal was preferred which was also dismissed. Hence, this revision.

3. Learned counsel for the applicant submits that in the present case, the Juvenile Justice Board as well as the Appellate Court have completely ignored to consider the statutory scheme of Section 12 of the Act of 2015 which itself is *pari materia* of Section 12 of the Act of 2000 while considering the application for grant of bail under Section 12 of the Act of 2015. He further submits

that the applicant has been falsely implicated in the present case. He has no criminal background. Orders passed by both the Courts below are improper and contrary to the law. In view of provision contained in Section 12 of the Juvenile Justice Act, the applicant deserves to be released on bail. The applicant is in Jail since 01.04.2019 and he has completed more than 3 months in custody, therefore, he may be extended benefit of bail.

4. Counsel for the State submits that the order passed by the two Courts below being fully justified and in accordance with the provisions of Section 12 of the Act does not warrant any interference and the instant revision deserves to be set aside.
5. I have heard learned counsel both the parties and perused the material available on record. On perusal of the record I do not find any reasonable ground having been brought before the Juvenile Justice Board or the Police Authorities in respect of the so called threat of the juvenile getting exposed to moral, physical or psychological danger or come in the company of known criminal.
6. In view of above consideration, the impugned order dated 26.04.2019 could not be sustained and is therefore, set aside. The application under Section 12 of the Act of 2015 is allowed. The applicant shall be

released on bail forthwith on furnishing a personal bond in the sum of Rs. 25,000/-, by the parents or guardians 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.

7. The revision is accordingly allowed.

Sd/-
(Rajani Dubey)
Judge