

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 720 of 2019**

- Bhairon Singh Thakur, Aged About 17 Years, Through The Legal Guardian Father Shri Narendra Singh Thakur, Aged About 34 Years, S/o Shri Jagannath Singh, R/o Vinoba Nagar, Police Station Tarbahar Tahsil and District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Civil Lines, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant : Shri Ashish Shrivastava, Advocate.
 For Respondent/State : Shri Rahul Mishra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey
Order on Board

09/07/2019

1. This revision is directed against the order dated 21.05.2019, by which the appeal of the applicant, a juvenile in conflict with law, has been dismissed affirming the order rejecting juvenile's bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015').
2. On an allegation of having committed offence under Sections 307 and 323/34 of the IPC and Section 25 of the Arms Act, a crime was registered against the applicant by the police of police station Civil Lines, Bilaspur, under Crime No.833/2018 and thereafter, he was produced before the Juvenile Justice Board, Bilaspur. The applicant moved an application under Section 12 of the Act of 2015 for grant of bail which was rejected by the Juvenile Justice Board vide its order dated

08.05.2019 against which, an appeal was preferred which was also dismissed on 21.05.2019, 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. Learned counsel for the applicant argued that grant of bail to a juvenile is a rule and in exceptional circumstances under which, it could be rejected, are those which have been exhaustively enumerated in Section 12 of the Act of 2015 itself. Unless those grounds are made out, a juvenile is required to be granted bail. It is further contended that in the present case, report of the Probation Officer does not indicate anywhere that his release would bring him in association with any known criminals or expose him to moral, physical or psychological danger or would otherwise defeat the ends of justice. It is contended that the Juvenile Justice Board as well as the appellate authority have rejected the bail application by mechanically applying the aforesaid clauses, though bereft of any material. Therefore, the applicant may be granted 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. The provisions regarding grant of bail to a juvenile as per Section 12 of the Act, it clearly shows that the legislature has used the word “shall” in the said Section with great stress and with somewhat mandatory force which in other words means ordinarily irrespective of the nature of offence whenever a juvenile applies for bail he should be released on bail. The learned Single Judge of this Court in the case of **Jaleshwar Barman @ Dadu Vs. State of Chhattisgarh (CRR No.963/2016)** and **Shrawan Bhagat Vs. State of Chhattisgarh (CRR No. 67/2014)** aggregatively discussed on Section 12 and it is held that use of word “shall” by the legislative provisions in Section 12 of the Act is of great significance and which raises a presumption that the particular provision is imperative and makes it manifest that ordinarily the board is under obligation to release the juvenile on bail with or without surety, but the juvenile shall not be so released in certain circumstances as latter part of the Section also uses the word “shall” imposing certain mandatory conditions prohibiting the release of the Juvenile by the Board.
6. On perusal of the record and report of the Probationary Officer 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.
7. In view of above consideration, the impugned order 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.

8. The revision is accordingly allowed.

Sd/-
(Rajani Dubey)
Judge