

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRR No. 744 of 2019**

- Amit Toppo, S/o Pana Ram, aged about 15 years, R/o village Barkol, Barpara, P.S. Dhourpur, District Surguja (C.G). Through : the natural guardian father Pana Ram, S/o Nanhu Ram, aged about 40 years, R/o village Barkol, Barpara, P.S. Dhourpur, District Surguja (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh Through : The Station House Officer, Police Station Dhourpur, District Surguja (C.G.).

---- Respondent

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

Hon'ble Smt. Justice Rajani Dubey**Order on Board****11/07/2019**

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 25.04.2019 passed in Criminal Appeal No. 57/2019 by the Additional Sessions Judge (FTC), Surguja at Ambikapur (C.G.), whereby the learned Sessions Judge has rejected the appeal arising out of order dated 03.04.2019 passed in Criminal Case No. 14/2019 dismissing the bail application of the present applicant by the Principal Magistrate, Juvenile Justice Board, Ambikapur, District Surguja.
2. This is the revision petition filed by the applicant, who is

juvenile. The prosecution story, in brief, is that there was love affair between victim and the applicant, he had purchased mobile for victim and they both used to talk with each other every day. Prior to some days of the incident, the victim had started talking to other boy, which was objected by the applicant and being annoyed by the act of the victim, he assaulted her with knife and he himself consumed poisons substance. The victim was injured and lodged an FIR against the accused/applicant. On the date of occurrence the present applicant being juvenile was sent to juvenile home. 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 applicants 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 rule and exceptional circumstances under which, it could be rejected are under 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 filed before the Juvenile Justice Board does not indicate anywhere that his release would bring him in association with any known criminals or expose them 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. Counsel for the applicant also submits that the applicant is in observation home since 25.03.2019 and he has completed more than four 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. 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, 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 dated 25.04.2019 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.

8. The revision is accordingly allowed.

Sd/-

(Rajani Dubey)
Judge

Vijay Pekde