

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 865 of 2019**

Sahil Babaniya, S/o Dilip Babaniya, Aged About 16 Years,
Minor Through Natural Guardian Father Dilip Babaniya, S/o
Late Hariram Babaniya, Aged About 48 Years, R/o Har Shringar
Colony, Rajkishore Nagar, P.S. Sarkanda, Tahsil And District :
Bilaspur, Chhattisgarh

---- Applicant**Versus**

State of Chhattisgarh Through The Station House Officer,
Police Station Sarkanda, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Akhtar Hussain, Advocate.
For Respondent/State:		Shri I.Lakra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey
Order on Board

25/07/2019

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 04.07.2019 passed in Criminal Appeal No. 150/2019 by the Additional Sessions Judge (FTC), Bilaspur (C.G.), whereby the learned Sessions Court has rejected the appeal arising out of order dated 06.06.2019 passed in Crime No. 426/2019 dismissing the bail application of the present applicant by the Principal Magistrate, Juvenile Justice Board, Bilaspur, C.G..

2. As per the case of prosecution on 25.11.2018, when prosecutrix was returning to her home, the applicant came to her and told that her father is searching her with a stick in his hand and he assured that she should come with him, then he took her inside his house, committed forcible intercourse with her twice in the night, and also threatened her to life that if she will narrate the incident to anyone, he will click her obscene photographs and show it to her parents. On the next day, the prosecutrix fled away from the house of the applicant and informed about the incident to her parents. Thereafter, the FIR has been registered against the applicant by the complainant under Sections 376, 506, 363 ad 342 of the IPC and Section 4,6 and 8 of the POCSO Act. The applicant has been taken into custody on 01.05.2019. 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 custody since 01.05.2019.

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 04.07.2019 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