

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1020 of 2019**

- Mahadev Markande son of Kali Ram Markande, aged about 17 years, Minor, though natural guardian uncle Malim Ram son of Gend Ram Satnami, aged about 44 years, R/o Devari, Police Station City Kotwali, Balodabazar, District Balodabazar-Bhatapara (C.G.)

---- Applicant

Versus

- State of Chhattisgarh through the Station House Officer, Police Station City Kotwali, Balodabazar, District Balodabazar-Bhatapara (C.G.)

---- Respondent

For Applicant	:	Mr. Yogesh Chandra, Advocate.
For Respondent/State	:	Ms. Reena Singh, PL

Hon'ble Smt. Justice Rajani Dubey
Order on Board

11/09/2019

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 06.08.2019 passed in Criminal Appeal No. 80/2019 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 24.07.2019 passed in Crime No. 384/2019 dismissing the bail application of the present applicant by the Juvenile Justice Board, Balodabazar.
2. The prosecution story, in brief, is that the applicant and other co-accused namely Manish Gayakwad were found to be in

possession of illicit liquor measuring about 15.0300 bulk liters. On the date of occurrence the present applicant being juvenile. 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.

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. However, Social Investigation Report indicated that the accused, who is juvenile, is having bad habits but his parents/guardian submitted that they are ready to follow every conditions of this Court. In view of above consideration, the impugned order dated 06.08.2019 could not be sustained and is therefore, set aside. Accordingly, the application under Section 12 of the Act of 2015 is allowed.

7. It is, therefore, directed that the applicant be released on bail on the conditions given below :-

1. The applicant shall be released on bail on his father/legal guardian furnishing a personal bond in the sum of

Rs. 25,000/- with one surety in the like sum to the satisfaction of the Juvenile Justice Board for his(applicant) appearance.

2. The applicant shall appear before the Juvenile Justice Board on all such other subsequent dates as given to him till the disposal of the case.

3. Father/natural guardian of the applicant shall file an undertaking that the applicant will not indulge in criminal activities during the bail period otherwise his bail will automatically stand canceled.

8. The revision is accordingly allowed.

Vijay Sahu

Sd/-
(Rajani Dubey)
Judge