

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 1167 of 2019**

- Amarjeet Tirkey @ Kular S/o Binsai Tirkey Aged About 16 Years, Occupation Student R/o Village Aamgaon Manapara, Police Station Churcha District Korla, Chhattisgarh. Represented Through Natural Guardian And Father Binsai Son Of Sitaram Aged About 44 Years, Occupation Cultivator Resident Of Village Aamgaon Manapara Police Station Churcha District Korla, Chhattisgarh.

---- Applicant

Versus

- The State Of Chhattisgarh Through The Station House Officer, Police Station Churcha, District Korla, Chhattisgarh.

---- Respondent

For Applicant : Shri D. N. Prajapati, Advocate.
For Respondent/State : Shri Wasim Miyan, PL.

Hon'ble Smt. Justice Rajani Dubey
Order on Board

03/10/2019

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 30.04.2019 passed in Criminal Appeal No. 37/2019 by the learned Sessions Judge, Baikunthpur, District Korla (C.G.), whereby the learned Sessions Judge has rejected the appeal arising out of order dated 04.04.2019 passed in Crime No. 75/2018 dismissing the bail application of the present applicant by the Chairman, Juvenile Justice Board, Baikunthpur, District Korla, C.G.
2. This is the revision petition filed by the accused, who is juvenile. The prosecution story in brief is that prosecutrix was having love affair with one Devnandan Uraon and both have developed physical relationship

on several occasions. Thereafter, Devnandan Uraon performed marriage with some other lady and after marriage of the prosecutrix stopped to talk with him. On 24.05.2018 at about 8.00 PM., when the prosecutrix went to answer call of nature, Devnandan Uraon stopped her and took her towards the field, where the present applicant and co-accused Pramod Uraon came and all of them, committed rape on her and threatened that if she discusses the incident to anyone they will kill her. Thereafter, prosecutrix informed about the incident to her parents and on 25.05.2018 FIR was lodged against the applicant on the date of incident the present applicant was juvenile, he was sent to juvenile home on 26.05.2019. 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 Jail since 26.05.2019 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 30.04.2019 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