

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No. 1273 of 2019

- Pawan Sahu S/o Shrawan Sahu, Aged About 15 Years Through Its Natural Guardian Shrawn Sahu, Aged About 38 Years, S/o Shri Sundar Sahu, R/o Hiralal Ward, Mungeli, Tahsil And District Mungeli Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Mungeli, Tahsil And District Mungeli Chhattisgarh

---- Non-applicant

And

Cr.R. No. 1195 Of 2019

- Zakir @ Ibrahim Khan S/o Shri Jabbar Khan Aged About 16 Years R/o Daupara Andruj Ward Mungeli District Mungeli Chhattisgarh. Through Natural Guardian Mother Baby Naj W/o Shri Jabbar Khan, Aged About 45 Years R/o Daupara Andruj Ward Mungeli District Mungeli Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Mungeli, District Mungeli Chhattisgarh

---- Respondent

For Applicant in Cr.R. No.1273/2019	:	Mr. Anand Shukla, Mr. Aditya Tiwari & Mr. Akhil Mishra, Advocate.
Cr.R. No.1195/2019	:	Mr. Dheerendra Pandey, Advocate.
For Respondent in Cr.R.No.1273/2019	:	Mr. Ghanshyam Patel, G.A.
Cr.R.No.1195/2019	:	Mr. C.B. Kesharwani, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08-11-2019

Heard.

1. As both these cases arise out of the same crime numbers i.e. Crime

No.430/2014 registered for the offence under Sections 302, 307, 120(B) and 212/34 of I.P.C. in Cr.R. No.1195/2019 and Sections 302, 307, 120(B) and 211/34 of I.P.C. in Cr.R. No.1273/2019, therefore, they are being disposed off by this common order.

2. It is submitted by the learned counsel for their respective applicants that the applicants in both the cases are juvenile and they had been of age below 16 years on the date of incident. It is also submitted that firstly, the F.I.R. was lodged against an unknown person, which was lodged by one injured victim Salaru Baghel. The name of applicant- Zakir Khan has appeared in the dying declaration of the deceased, which was recorded after six days of the incident, whereas the name of another applicant Pawan Kumar has appeared in the statement of one witness recorded under Section 161 of Cr.P.C. after about 15 days from the date of incident. Both these applicants do not have any criminal antecedents and their parents are ready to abide by all conditions for taking care of the juvenile applicants. The Juvenile Justice Board has erroneously rejected their application filed under 12 of Juvenile Justice Act which was challenged in the appeal before the Court of Additional Sessions Judge, Dhamtari. The appeal of applicant in applicant- Zakir Khan has been dismissed vide order dated 09.09.2019 and the appeal of applicant- Pawan Sahu has been dismissed vide order dated 11.09.2019 on erroneous grounds, therefore, these revision petitions are filed and it is prayed that applicants be granted bail.
3. Learned counsel for the State appearing in Cr.R. No.1273/2019 opposes the application and submits that there is evidence present against both the applicants about having participated in the commission of offence of murder of one Omprakash. Therefore, they are not entitled

for grant of bail.

4. Similar is the argument advanced by the learned counsel for the State appearing in Criminal Revision No.1195/2019.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, on the date of incident, because of some previous dispute, the main accused Saurabh Chauhan in company of these applicants arrived on the spot of incident, where he poured petrol, mixed it with acid on the deceased Omprakash and then it is alleged that applicant- Zakir Khan lighted a matchstick and threw it on the deceased because of which he was set ablaze and he suffered burn injuries. The deceased succumbed to injuries during the course of treatment. Hence, this case.
7. According to the provision under Section 12 of Juvenile Justice Act, it is very clearly provided that grant of bail is rule, whereas rejection is exception. The Social Status Report that has been submitted for applicant in both the case is positive and it is also specifically mentioned that the applicant in both the cases do not have any criminal antecedents and neither there is any such report that the applicants have ever been in any association of any criminal element. On the contrary, it is submitted by the learned counsel for the applicant- Pawan Sahu in Cr.R. No.1273/2019, that he is a school going child, whereas applicant-Zakir Khan in Criminal Revision No.1195/2019 is engaged in earning livelihood in the cycle store of his father. It also appears that the Juvenile Justice Board as well as the Appellate Court were both moved by the gravity of the incident that has taken place, whereas the provision under Juvenile Justice Act for granting bail does not speak about the

gravity of offence to be taken into consideration. Therefore, overall consideration, I am of this view that the revision petition in both the cases are fit to be allowed.

8. Accordingly, the revision petition is allowed and the orders passed by both the Courts below are hereby set aside. The applicants shall be released on bail upon furnishing one surety of sum of Rs.25,000/- by the guardian of the applicant to the satisfaction of the Juvenile Justice Board, for their appearances before the Board as and when directed.

9. Certified copy as per rules.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge