

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.1243 of 2019**

- Sandhashish Modak, aged about 09 years 05 months, S/o Ashish Modak, through its natural guardian Ashish Modak, aged about 48 years, S/o Shri P.R. Modak, R/o A/202, C.G. Hights, Daldal Seoni, P.S. Mowa Tahsil and District Raipur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh through Police Station- Khamtarai, District Raipur (C.G.)

---- Respondent

For Applicant : Shri Anand Shukla, Advocate.
For Respondent/State : Shri Akhtar Hussain, PL

Hon'ble Smt. Justice Rajani Dubey
Order on Board

04.10.2019

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 18.09.2019 passed in Criminal Appeal No. 452/2019 by the 7th Additional Sessions Judge Raipur District Raipur (C.G.), whereby the learned Additional Sessions Judge has rejected the appeal arising out of order dated 31.08.2019 passed in Crime No. 440/2019 dismissing the bail application of the present applicant by the Principal Magistrate, Juvenile Justice Board, Raipur.
2. This is the revision petition filed by the accused, who

is juvenile. The prosecution story in brief is that on 22.08.2019 at 12.15 hours, one Laxman Bhandarkar lodged a complaint before the Police Station, Khamtarai, Raipur (C.G.), alleging that on 20.08.2019 his daughter aged 6 years, studying at Kendriya Vidyalaya No. 1 in Class 1(B) was subjected to rape by taking her into bathroom by present applicant and two other co-accused studying in the same school during recess. On such complaint, FIR was registered against the applicant and two other co-accused. The present applicant being juvenile. He was sent to juvenile home on 27.08.2019. 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 27.08.2019 and he has completed more than one month 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 18.09.2019 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.

Certified copy today.

Sd/-
(Rajani Dubey)
JUDGE