

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1289 of 2019

1. Rohit, S/o Shri Kailash Chakradhari Aged About 16 Years (Wrongly Mentioned As 'Chakrawarti'), Resident Of Bhantailaiya, Behind Government Middle School, Hanuman Taal, District-Jabalpur (MP) Present Address- Old Gaurela (In Custody At Observation Home).
2. Karan Chakradhari, S/o Naresh Chakradhari, Aged About 16 Years, Resident of Old Gaurela, Amarkantak Road, P.S.-Gaurela, District-Bilaspur, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh, Through The Police-Station-Gaurela, District-Bilaspur, Chhattisgarh.

---- Respondent

For applicants	:	Mr. Ritesh Verma, Advocate.
For Respondent/State	:	Mr. Devendra Pratap Singh, Dy. Adv. General. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

10/12/2019

Heard.

1. Challenge in this revision petition is to the correctness, propriety and legality of the order dated 6.9.2019 passed by the Court of learned Additional Sessions Judge (FTC), Bilaspur in Criminal Appeal No.190/2019.
2. The applicants/ juvenile in conflict with law are being prosecuted before the Juvenile Justice Board, Bilaspur, for commission of the offence punishable under Sections 302, 201, 34 of IPC. The applicants filed an application under Section 12 of the Juvenile Justice

(Care and Protection of Children) Act, 2000 (for short 'the Act') before the learned Board, which came to be rejected vide order dated 14.8.2019. This order was challenged in an appeal and the appellate Court has also dismissed the appeal.

3. It is submitted, that both the Courts below have not considered the provision of Section 12 of the Act in its true spirit. Report of the Probationary Officer, which was in favor of the applicants, has also been ignored. In these circumstances, the impugned order and the order of the Board are not sustainable. Hence, it is prayed that applicants be granted relief as claimed in the revision petition.
4. On the other hand, learned State counsel opposes the submissions made and submits that in this case the applicants is facing charge of murder, which is a heinous offence and therefore, their release on bail will send a negative message in the society. Hence, this petition be dismissed.
5. I have heard both the parties and documents on record.
6. The gravity of offence committed cannot be taken into consideration while deciding bail application of a juvenile in conflict with law. As per Section 12 of the Act, the bail to a juvenile in conflict with law is a rule and rejection is an exception. The specific circumstances have to be made out & explained and the reasons have to be given before rejecting bail application of a juvenile offender. As per the report submitted by Probationary Officer, which is mentioned in the impugned order, it is clear that the present is the first offence registered against them. The neighbours of the applicants have a positive view towards them. Applicant Nos.1 & 2 were prosecuting their studies. There is no such report that the applicants had been in association with any criminal elements and there is any such possibility of their again returning to any such association with criminal elements. The background of case is also required to be noticed. The applicants had a grievance from the deceased, who had an affair with their sister and because of which this incident has occurred. Therefore, after over all consideration, I am of this view that the orders passed by the appellate Court and the Juvenile Justice Board are not in accordance with law.

7. Consequently, this petition is allowed at the motion stage itself. The impugned orders passed by the appellate Court as well the Juvenile Justice Board are set aside and the application for grant of bail to the applicants is allowed. It is directed that the applicants shall be released on bail, upon furnishing a personal bond by his natural guardian (father), in the sum of Rs.25,000/- each, with one surety in the like sum to the satisfaction of the Juvenile Justice Board, Bilaspur with an undertaking of their father that he will take care of the applicants and keep them away from the company of known criminals. The applicants shall appear before the Board concerned as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha