

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1344 of 2019

- Minor Nomesh Kumar Sahu S/o Shri Chunnilal Sahu, Aged About 16 Years, Through Natural Guardian His Father Chunnilal Sahu S/o Nohar Sahu, R/o Akolikala Bhou, Police Station Arang, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer Arang, Police Station - Arang, District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

--- Respondent

For Applicant– Shri Syed Imtiaz Ali, Advocate.

For State/respondent – Shri Sudhir Sahu, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-12-2019

1. This revision has been brought challenging the legality, propriety and correctness of the order dated 27-09-2019 passed in Criminal Appeal No.476/2019 by the Court of 7th Additional Sessions Judge Raipur by dismissing the appeal under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015.
2. The applicant is being prosecuted for the offences under Section 376A and 376B of the IPC and also under Section 4 of POCSO Act, 2012 before the Juvenile Justice Board, Raipur. The application filed under Section 12 of the Juvenile (Care and Protection of Children) Act, 2015 for grant of bail which was rejected by the Board, which was challenged in the appeal and the appeal has also been dismissed.
3. It is submitted that the Board and the appellate Court both have not appreciated this fact that the social status report was given in favour of the applicant by the Probation Officer. The gravity of the offence is never consideration for grant and rejection of bail. Therefore, it is prayed that the orders passed are erroneous and liable to be set aside.

4. Learned counsel for the State/respondent opposes the petition submitting that the allegation against the applicant is of commission of heinous offence, therefore, he is not entitled for grant of bail.

5. Heard learned counsel for the parties and perused the documents.

6. The case against the applicant is briefly discussed hereinabove.

7. There is no dispute that the applicant is a juvenile with conflict with law. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 very clearly provides that grant of bail is rule and rejection of bail is exception and rejection of bail has to be always on the grounds that are mentioned in the provisions itself. According to the social report submitted by the Probation Officer before the appellate Court, it is clear that this is first offence alleged to have been committed by the applicant, the applicant is of calm and quite nature, the neighbours of the applicant have positive opinion for him and there is no possibility of this applicant returning to any association with criminal elements. Therefore, there was no circumstance to exercise the jurisdiction under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 on the exception side because it was a case where rule had to be followed. Hence, the impugned order of the appellate Court and the order of the Board both are erroneous and not sustainable. Hence, the petition is allowed and the impugned order of the appellate Court and order of the Juvenile Justice Board are set aside and the application for grant of bail to the applicant is allowed. It is directed that on furnishing of a personal bond in the sum of Rs.25,000/- by his parent or guardian with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed, then he shall be given in custody of his parent or guardian.

Sd/-
(Rajendra Chandra Singh Samant)
Judge