

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1376 of 2019

Lukesh Kumar Kurre S/o Shri Pawan Kumar Kurre Aged About 16 Years Minor,
Through His Natural Guardian Father Pawan Kumar Kurre S/o Shyam Lal
Kurre, Aged About 42 Years, R/o Village Sarora, Police Station Newra Tilda,
District Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate, Raipur, District Raipur,
Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rekhraj Baghel, Advocate
For Respondent/State	: Mr. Avinash K. Mishra, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-11-2019

1. Challenge in this petition is to the order dated 17.10.2019, passed by Learned Ninth Additional Sessions Judge, Raipur, District Raipur in Criminal Appeal No. 498 of 2019, whereby the appeal preferred by the applicant/ juvenile against the order of Magistrate, Juvenile Justice Board, Mana Camp, Raipur, District Raipur dated 30.9.2019, in Crime No. 393 of 2019 has been dismissed, whereby the applicant has been denied bail.
2. This revision petition has been brought challenging the correctness, propriety and legality of the impugned order dated 17.10.2019 passed in Criminal Appeal No. 498 of 2019 by the Court of Ninth Additional Sessions Judge, Raipur dismissing the appeal of the applicant.
3. It is submitted by counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. After his arrest, the application under Section 12 of the Juvenile Justice (Care and

Protection of Children) Act, 2000 was filed before the Learned Juvenile Justice Board on 30.9.2019 and the appeal which was filed by the applicant was also rejected arbitrarily and erroneously. without considering the social status report which was in favour of the applicant. Hence, it is prayed that this revision petition be allowed.

4. Learned counsel appearing for the respondent/ State opposes the submission so made and submits that the applicant is charged with the commission of serious offence, therefore, he is not entitled for grant of bail.
5. Heard both counsel for the parties and perused the material available on record.
6. The applicant has been arrested for commission of offences under Sections 376(d), 342 and 506 part II of the Indian Penal Code.
7. On perusal of the order of the Juvenile Justice Board and the order of the Appellate Court, it is found that the learned Courts below have not given consideration to the provision under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000. According to which, grant of bail is rule while rejection is exception and the reasons mentioned in the impugned order do not appear to be sufficient and not supported with other facts and circumstances, therefore, it is only the observation by the Court itself. The Court can give opinion, which should be based on the facts and circumstances already present in the case. Therefore, in this case, the rule should have been followed and it was not a case of exception, therefore, I feel inclined to allow this revision petition.
8. Consequently, the order dated 17.10.2019 and 30.9.2019 passed by the Learned Ninth Additional Sessions Judge as also the Juvenile Justice

Board are set aside. It is directed that the applicant shall be released on bail on furnishing a surety of Rs.25,000/- by his father or guardian alongwith a personal bond to the satisfaction of the concerned Juvenile Justice Board, for his appearance as and when directed, then he shall be given in custody of his father or guardian.

Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi