

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1619 of 2019

- Masuk Ansari S/o Asgar Ansari Aged About 17 Years R/o. Village Majhigaon, P.S. Majhigaon, District Garwa, At Present Momipura, Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Mahila Thana, Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

--- Non-applicant

For Applicant– Shri Sumit Singh Rathore, Advocate.

For State/Non-applicant– Shri Sudeep Verma, Deputy Govt. Advocate.

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

20-12-2019

Heard.

1. This revision has been brought being aggrieved by the order dated 06-12-2019 by which the appellate Court has dismissed the application filed by the applicant under Section 389(1) of the Cr.P.C.
2. It is submitted that the applicant was prosecuted before the Juvenile Justice Board Ambikapur in Criminal Case No.35/2018 for commission of offence under Section 376(2)(i)(n) and Section 4, 6 of POCSO Act. The Juvenile Justice Board has convicted the applicant for offences under Section 376 of the IPC and Section 4, 6 of POCSO Act and ordered for detention of the applicant in Special Juvenile Cell at Durg for a period of six months. The applicant then filed Criminal Appeal No.154/2019 before the appellate Court, Additional Sessions Judge (FTC) Surguja (Ambikapur) and also application under Section 389(1) of the Cr.P.C. which has been rejected.
3. It is submitted that the learned appellate Court has not considered that the applicant had been on bail during pendency of the proceeding before the Juvenile Justice Board and also the gravity of offence is never a consideration for grant of

bail to a juvenile in conflict with law, therefore, the order passed is bad in law which may be set aside.

4. Learned counsel for the State/respondent opposes the petition.

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

6. Considering that the applicant has already on bail during pendency of the trial and he has challenged the judgment of conviction and sentence against him before the appellate Court. Therefore, the gravity of the offence should not have been taken into consideration as it is not a ground to reject the bail application as it is provided under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Therefore, I am of this view that this petition is fit to be allowed.

7. Therefore, the revision petition is allowed and the impugned order of the appellate Court is 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