

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION [APPA] NO.126 OF 2019

IN

CRIMINAL APPEAL NO.79 OF 2019

[S – Child in conflict with law, through natural guardian mother Mrs. Rita w/o Subhash Bhajipale .vs. The State of Maharashtra, through Police Station Officer, Police Station, Mohadi, Tahsil-Mohadi, District-Bhandara]

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Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders
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Court's or Judge's orders

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Shri R.M. Daga, Advocate for Applicant,
Ms Mrinal Barabde, APP for respondent-State.
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CORAM : MRS. SWAPNA JOSHI, J.

DATED : APRIL 03, 2019.

Heard the learned advocate for the applicant and the learned Additional Public Prosecutor for the respondent-State.

This is an application filed by the applicant under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 for grant of bail to the child in conflict with law and for grant of his custody to applicant natural guardian mother.

The child in conflict with law (for short 'S') was tried by the Special Judge, Bhandara in Special Criminal (Child) Case No.42/2016. By the judgment and order dated 8.1.2019, he was sentenced to suffer rigorous imprisonment for ten years and to pay a fine of Rs.10,000/- and in default to suffer rigorous imprisonment for six months under section 376 of the Indian Penal Code. It was directed that 'S' be kept at Special Home at Pune till he attains age of 21 years.

Admittedly, during the course of appeal, applicant Smt. Rita w/o Subhash Bhajipale, who is the natural guardian i.e. mother of 'S' had filed application Exh.12 before Juvenile Justice Board, Bhandara seeking custody of 'S' during trial. By order dated 12.8.2016, it was directed by the Board to release 'S' on bail. Now the applicant Smt. Rita w/o Subhash Bhajipale, who is the mother of 'S', undertakes to take care of

'S' during pendency of present appeal and also undertakes to keep watch upon the activities of 'S' to see that he is not associated to any criminal or exposed to physical or psychological danger.

Considering that the child in conflict with law is a student and he was taking education in I.T.I. at Mohadi, District-Bhandara and he has no antecedents at his account, so also there are no allegations of misuse of liberty during the pendency of the trial and also considering that he has deposited the fine amount in the Court, the child in conflict with law is entitled for bail, so also the custody of the child needs to be granted to the natural guardian i.e. mother for the welfare of the child in conflict with law, so that he be looked after in homely atmosphere.

In view of the facts and circumstances, the following order is passed :

- 1) Criminal Application No.126/2019 is allowed.
- 2) The substantive jail sentence imposed against the child in conflict with law by the Special Judge, Bhandara in Special Criminal (Child) Case No.42/2016, dated 8.1.2019 shall remain suspended during the pendency of the present appeal.
- 3) The child in conflict with law shall be released on bail on executing fresh bonds of the same amount as in the trial court.
- 4) The learned Judge before whom the bail bonds will be executed shall ensure that before execution of the bail bonds, the entire fine amount is deposited by the child in conflict with law.
- 5) The child in conflict with law shall remain personally present before this Court at the time of final hearing of the Appeal.
- 6) The custody of the child in conflict with law be handed over to Smt. Rita w/o Subhash Bhajipale, who is mother and natural guardian of the child in conflict with law during the pendency of the appeal.

With this order, Criminal Application stands disposed of.

JUDGE