

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 58 of 2020

Anshu @ Justin Anthony S/o Rakesh Anthony Aged About 11 Years Through Natural Guardian Mother Smt. Seema Anthony (Wrongly Mentioned In Impugned Order as Smt. Anthony) Aged About 37 Years, Resident Of Kenal Road, Shyamnagar, Police Station Telibandha, Raipur, District Raipur, Chhattisgarh.

---- Applicant

Versus

The State Of Chhattisgarh Through Police Station Telibandha Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Ashish Shukla, Advocate
For Respondent/State	: Shri Sanjay Pathak, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-02-2020

1. This petition has been brought challenging the order dated 17.12.2019, passed by Learned Additional Sessions Judge, First Fast Track Special Court, Raipur, District Raipur in Criminal Appeal No. 578 of 2019, dismissing the appeal filed by the applicant.
2. It is submitted by counsel for the applicant that the applicant is just 11 years old. Learned Juvenile Justice Board and the Appellate Court both have not appreciated the provision under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2012, according to which, there was presence of no exception so as to reject the application for bail filed by the applicant. Hence, it is prayed that this revision petition be allowed and the relief be granted to the applicant.

3. Learned counsel appearing for the respondent/ State opposes the submission so made and submits that the prosecutrix in this case is just five years old child, hence, the applicant is charged with the commission of heinous offence, therefore, he is not entitled for grant of bail.
4. Heard both counsel for the parties and perused the material available on record.
5. The applicant is juvenile in conflict with law and he is being proceeded before the Juvenile Justice Board for the commission of offences under Sections 376 and 376 AB of the IPC and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012.
6. Section 12 of the POCSO Act, 2012 specifically provides that the bail is a rule and rejection of bail is an exception, which can be ordered only when the specific circumstances are present, that there is danger of the applicant being exposed to moral, physical or psychological danger and there are some other reasons which may be considered for denying the bail. There are no such circumstances present in the case. The social status report submitted says that the applicant is a student of 6th class and he is a person of low mental growth, therefore, it appears that it would be for the benefit of the applicant that he should be in the custody of his parents who shall take care of him, for his bringing up and other health issues. Hence, it is found that the Juvenile Justice Board and the Appellate Court have not correctly passed the order.
7. Hence, this revision petition is allowed.
8. Consequently, the orders dated 17.12.2019 and 3.12.2019 passed by the Learned Additional Sessions Judge, First Fast Track Special Court 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi