

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.114 of 2019

- Ankit Gain S/o Satendra Gain Aged About 15 Years Through His Natural Guardian (Father) Satindra Gain S/o Ganpati Gain Aged About 53 Years R/o Singoditarai, Narayanpur, District Narayanpur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Aarakshi Kendra Narayanpur, District Narayanpur Chhattisgarh

--- Non-applicant

For Applicant : Mr. Vikash A. Shrivastava, Advocate.

For State/respondent : Mr. Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-06-2020

Heard.

1. This petition has been brought being aggrieved by the impugned judgment dated 16.04.2018, passed in Criminal Appeal No.26/2018, by Additional Sessions Judge, Kondagaon, District- Kondagaon, C.G. by which the order rejecting the bail application of the applicant by the Juvenile Justice Board has been upheld and the appeal has been dismissed.
2. It is submitted by the learned counsel for the applicant that the applicant who is in conflict with law is in detention since 12.01.2018. The applicant intends to prove his innocence in the proceeding before the Juvenile Justice Board. It is further submitted that the social status report had been in favour of the applicant and there had been no ground for rejection of bail as required under Section 12 of Juvenile Justice Care

and Protection Act. The learned Board as well as the appellate Court both have committed error in denying the bail to the applicant. The prosecutrix in this case has made general allegation against this applicant and also against the other persons accused of commission of offence and the other persons namely Vipalab Maal, Sidhant @ Rikki Ilwaadi and juvenile offender Paramjeet @ Sunny Thakur had been granted bail by the Co-ordinate Bench of this Court. So it is on ground of parity, it is prayed that this applicant may also be released on bail. Hence, interference is prayed for.

3. Learned counsel for the State opposes the petition and the submissions made in this respect and it is submitted that this applicant is the main offender, therefore, his case is not similar to the other accused persons, who have been benefited with grant of bail. Looking to the gravity of the offence that has been committed by this applicant, he is not entitled for bail. Therefore, the learned Board as well as appellate Court both have not committed any error. Hence, the revision may be dismissed.
4. Heard learned counsel for both the parties and perused the documents.
5. The applicant that is the child in conflict with law is accused of commission of offence of gang rape under Section 376 D of I.P.C. and under Section 406 of POCSO Act along with the other accused persons.
6. The gravity of offence is not a consideration for grant of bail to a juvenile under Section 12 of the Act, 2015. The social status report mentions that applicant who is aged about 15 years is not interested in studies, he is a person of emotional nature and of poor background. It is opined that the offence may have been committed because of the influence of associates and there is no criminal antecedents present.
7. The grounds on which the bail can be refused according to the proviso under Section 12(1) of Act, 2015 is this that there has to be reasonable

ground to believe that the juvenile if so released is likely to be associated with known criminal elements or that he may be exposed to moral, physical or psychological danger or that his release would defeat the purpose of justice. No such grounds are found in this case and neither any such ground is mentioned in the impugned order as well as the order of the Juvenile Justice Board. The observations made in the impugned order are baseless. Therefore, I am of this view that it was a fit case in which the applicant should have been benefited with grant of bail. Hence, the revision petition is allowed and the order is set aside.

8. Hence, the petition is allowed and disposed off with this direction to the Juvenile Board that on furnishing bail bonds of Rs.25,000/- by the father of the petitioner, he may be handed over in custody of his father, on condition that the petitioner shall be taken care of, he should be made to devote to the studies and that he should not be allowed to associate with any criminal elements.

9. Accordingly, the petition stands disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika