

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 78 of 2020

- Mangal Singh, S/o Ratan Singh Aged About 15 Years Minor Represented Through Mother Smt. Sunita Kaur W/o Ratan Singh, Resident Of Jawahar Nagar, Police Station- Jamul, District- Durg Chhattisgarh.

---- Petitioner

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station- Bhilai Bhatthi, District-Durg Chhattisgarh.

For applicant	:	Mr. Goutam Khetrapal, Advocate.
For Respondent	:	Mr. Devendra Pratap Singh, Dy. Adv. General.

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

20/05/2020

Heard.

1. This revision petition has been brought being aggrieved by the order dated 12.12.2019 (Annexure-A/1) passed by the Children's Court/ Additional District & Sessions Judge, Second Fast Track Special Court, (POCSO), Durg, Chhattisgarh in Criminal Appeal No.2668/2019 affirming the order passed by the Juvenile Justice Board refusing to release the applicant on bail.
2. It is submitted by the learned counsel for the applicant, that applicant, is innocent child in conflict with law and has been falsely implicated in this case. The applicant is juvenile in conflict with law, who has not even completed 15 years of age on the date of incident. Although the offence registered against applicant is serious in nature, but gravity of offence is not to be seen while considering bail to a juvenile. The social status report was infavor of applicant, which has been ignored by the Board as well as the appellate Court, hence, the impugned order and the order passed by the Board, both suffer from infirmity and are liable

to be set aside. Hence, it is prayed that application be allowed and the applicant be granted bail.

3. Learned State Counsel opposes the petition and submissions made in this respect. It is submitted that the Board and the appellate Court both have not committed any error in passing order of rejection of bail to the applicant, therefore, no interference is needed.
4. I have heard both the parties and perused the documents present on record.
5. The case against the applicant is this, that on the date of incident, the applicant along with other accused persons, who are major, abducted the prosecutrix and in that process, they also assaulted one of the victims and looted cash & mobile phone from his possession. Thereafter, they took the prosecutrix to a lonely place and there they committed gang rape with her.
6. Allegation against the applicant is serious in nature, but the gravity of offence is never a consideration under Section 12 of the Juvenile Justice (Care & Protection of Children) Act. It is mentioned in the social status report that this is first ever offence committed by the applicant, who has just crossed the age of 14 on the date of incident, and otherwise the social status report appears to be in favour of applicant. Therefore, this Court is of the view that the Board as well as the appellate Court both have not properly appreciated the circumstances that were infavor of applicant and the reasons assigned for dismissal of his prayer do not find any support from the facts and circumstances of this case. Hence, I feel inclined to allow this revision petition.
7. Consequently, this revision petition is allowed at the motion stage itself. The impugned orders passed by the appellate Court as well the Juvenile Justice Board are set aside and the application for grant of bail to the applicant herein is allowed. It is directed that the applicant shall be released on bail upon furnishing a personal bond by his natural guardian i.e. father, in the sum of Rs.25,000/-, with one surety of the like sum to the satisfaction of the Juvenile Justice Board, Durg. The father of applicant shall also furnish an undertaking that he will

take care of the applicant and ensure that his son does not come into contact with any criminal or bad elements in society. The applicant shall appear before the Board concerned as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha