

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No. 192 of 2020

- Himanshu Gupta @ Himanshu Kesharwani (Juvenile) S/o Shri Dileep Gupta (Kesharwani) Aged About 17 Years Through His Legal/natural Guardian Father Shri Dileep Gupta (Kesharwani) S/o Late Shri Ramchandra Gupta (Kesharwani), Aged About 51 Years, Resident Of- Vikash Nagar, Pahala Gali, Hara Makan, Police Station- Gudhiyari, Raipur, District- Raipur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The District Magistrate, Raipur, District- Raipur Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Shivendu Pandya, Advocate.
For State/respondent	:	Mr. Adil Minhaj, G.A.

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

20-05-2020

Heard.

1. This petition has been brought being aggrieved by the impugned judgment dated 16.08.2019, passed by the appellate Court, passed in Criminal Appeal No.263/2019, rejecting the bail and upholding the order of Juvenile Justice Board by which the prayer for bail made by the applicant was rejected.
2. It is submitted by the learned counsel for the applicant that the applicant is in remand home since about more than one year. The learned Board as well as appellate Court both have not considered that gravity of offence is not the ground for consideration in granting bail, as it is

specified under Section 12 of Juvenile Justice Care and Protection of Children Act. There was nothing mentioned in the social status report against the applicant which could have been made the ground for rejection. It is the natural father of the applicant who is seeking his custody. The applicant has no criminal antecedent, hence, it is prayed that he may be granted bail.

3. Learned counsel for the State opposes the application and submits that the applicant is the main offender in this case who has stabbed the victim with knife in association with other major accused persons. Therefore, clearly it shows that the applicant is associated with other criminal elements. Hence, he is not entitled for bail and no error has been committed by the appellate Court as well as the Juvenile Justice Board.
4. Heard learned counsel for both the parties and perused the documents.
5. As per the facts of the case, on the date of incident because of some altercation and exchange of words, this applicant who was in possession of a knife, stabbed the victim on his abdomen causing injury to him and by lodging the F.I.R., the case has been registered against this applicant and others for the offence under Section 307 read with Section 34 of I.P.C. There is no dispute that the applicant had been juvenile on the date of incident. Section 12 of the Juvenile Justice Care and Protection Act specifically provides that there should be specific reason for rejection of bail application. Hence, it is a rule that bail should be ordinarily be granted.
6. Looking to the social status report, it is clear that the applicant does not have any criminal antecedent and since his father himself is seeking his custody to take his care and give protection, therefore, no question arises as to that he may be associated with criminal elements in future and there may be danger of his being exposed socially and

psychologically. Therefore, the Board as well as the appellate Court both have committed the error in holding that the applicant is not entitled for grant of bail. Hence, I feel inclined to allow this revision petition. The orders of the Board as well as the appellate Court both are set aside.

7. 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 parent or guardian of the petitioner, he may be handed over in custody of his parents or guardian, 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.

8. Accordingly, the petition stands disposed off.

Monika

Sd/-
(Rajendra Chandra Singh Samant)
Judge