

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.341 of 2020

1. Juvenile In Conflict With Law Through Natural Guardian (Father)
Bhagirathi Kashyap S/o Bahit Kashyap Aged About 33 Years
2. Juvenile In Conflict With Law Through Natural Guardian (Mother) Smt.
Kaushilya Kashyap W/o Bedeshwar Kashyap Aged About 29 Years
3. Juvenile In Conflict With Law Through Natural Guardian (Mother) Smt.
Punay Baghel W/o Sukhlal Baghel Aged About 40 Years
(All are r/o Village Rajnagar, Mundapara, District Bastar Chhattisgarh)

---- Applicants

Versus

- State Of Chhattisgarh Through District Magistrate Bastar Place
Jagdalpur And P.S. Nagarnar District Bastar Chhattisgarh

---- Respondent

For Applicants	:	Mr. P.K. Tulsyan, Advocate.
For State/Non-applicant	:	Mr. Adil Minhaj, G.A.

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

21-05-2020

Heard.

1. This petition has been brought being aggrieved by the impugned judgment dated 11.02.2020, passed by the Additional Sessions Judge, F.T.C., Bastar, Place-Jagdalpur, C.G., in Criminal Appeal No.05/2020, by which the order of Juvenile Justice Board rejecting the bail application of the applicants was upheld.
2. It is submitted by the learned counsel for the applicants that all the applicants are children of very young age, and they have not committed any offence. Although, the victim has given a statement against the applicants but the medical report does not support her version. The social status report is also in favour of the applicants, even then the learned Board as well as the appellate Court both have not appreciated the same. Hence, the order passed by Board upheld by the appellate Court is erroneous, which needs to be interfered with.

3. Learned counsel for the State opposes the application and submits that the age of victim in this case is only 8 years and she has made a clear statement against the applicant as well as the medical report suggest injuries around her private parts, therefore, the innocence of the applicant claimed is required to be proved in the inquiry. The Courts below have not committed any error. Hence, it is prayed that this revision petition be dismissed.
4. Heard learned counsel for both the parties and perused the documents.
5. The applicant No.1, 2 and 3 are of age only 12 years, 9 years and 11 years respectively. It is alleged that these applicants have committed the offence of gang rape with the minor victim of age only 8 years. The medical report regarding the examination of the victim does not mention any definite opinion regarding the commission of offence of rape. The social status report has also been in favour of the applicants. The gravity of offence is never a consideration for granting or rejecting the bail to a juvenile. Therefore, the learned Board as well as the learned appellate Court both have failed to comply with the provisions as laid down under Section 12 of the Juvenile Justice Care and Protection of the Children Act, according to which, bail is a rule and rejection is an exception. Hence, I feel inclined to allow this application.
6. 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 guardians of the applicants, they may be handed over in custody of his parents or guardian, on condition that the applicants shall be taken care of, they should be made to devote to the studies and that they should not be allowed to associate with any criminal elements.
7. Accordingly, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)

Judge