

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 491 of 2020

- Sanatram Rathiya @ Santuram Rathiya S/o Late Amritlal Aged About 16 Years Minor Through Kamli Rathiya D/o Late Amritlal, Aged About 24 Years, R/o Village Hanti, Police Station Chhal, Tahsil Dharamjaigarh, District Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Raigarh, District Raigarh, Chhattisgarh

---- Respondent

For applicant	:	Mr. Ashish Gupta, Advocate.
For Respondent	:	Mrs. Sunita Jain, Govt. Advocate.

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

17/06/2020

Heard.

1. This revision petition has been brought being aggrieved by the order dated 21.05.2020 (Annexure-A/1) passed by the learned Additional Sessions Judge (FTC), Raigarh, District-Raigarh, Chhattisgarh in Criminal Appeal No.44/2020, in which, the order of Juvenile Justice Board rejecting the prayer for grant of bail to the applicant was upheld.
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 learned board and the appellate Court both have erroneously appreciated the social status report. As per facts of the

case itself, the applicant is not the main accused. He has not made any assault on the deceased of the case and he had simply accompanied his elder brother, who is the main accused in the said incident and as such, he has not participated in the crime. It is further submitted, that there is nothing against the applicant in the social status report given, therefore, denial of bail by the Courts below is erroneous, therefore, the impugned order needs interference.

3. Learned State Counsel opposes the petition and submissions made in this respect. It is submitted that the applicant has been charged with offence of murder, in which, the applicant has participated and acted in furtherance of common intention. It is also submitted that the father of applicant has expired and his mother is mentally disturbed, therefore, if the applicant is released, then he shall not be having any guardianship to look after him. In such a situation, it is better to keep him in institutional care. Hence, no interference is needed.
4. I have heard both the parties and perused the documents present on record.
5. Considered on the submissions made by the counsel from both the sides. It is the elder sister of the applicant, who has filed this revision petition seeking custody of the juvenile applicant. As per the social status report, it is mentioned that the applicant has left education and he is a person of low IQ level, therefore, he was unable to understand the consequences of the act in which he has participated. Looking to this remark of social status report, I am of this view that the Board as well as appellate Court both have committed error in passing the orders of rejection. Hence, this revision petition is allowed.
6. 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 given in custody of his guardian i.e. his elder sister upon furnishing a personal bond by his natural guardian i.e. sister, in the sum of Rs.25,000/-, with one surety of the like sum to the satisfaction of the Juvenile Justice Board, Raigarh. The sister of applicant shall

also furnish an undertaking that she will take care of the applicant and ensure that her brother 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