

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 502 of 2020

- Kundan Kumar Mahto @ Bhuvar, S/o Shri Baijnath Mahto, Aged About 17 Years Through His Legal Guardian His Father Shri Baijnath Mahto, Age About 40 Years, S/o Ramashray Mahto, R/o Thugdanahar, Near Bridge, Durg, District (Revenue And Civil) - Durg Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through District Magistrate, Durg, District-Durg, Chhattisgarh.

---- Respondent

For applicant	:	Mr. Yogesh Pandey, 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 04.06.2020 (Annexure-A/1) passed by the learned Additional Sessions Judge, (Second Fast Track Special Court) (POCSO Act), Durg, Chhattisgarh in Criminal Appeal No.83/2020, affirming the order dated 28.05.2020 passed by the Juvenile Justice Board, Durg, District-Durg thereby rejecting the prayer for grant of bail to the applicant.
2. It is submitted by the learned counsel for the applicant, that applicant, who is a child in conflict with law, is innocent and has been falsely implicated in this case. The learned Board and the appellate Court both have erroneously appreciated the social status report of applicant, ignoring the fact that said report is clearly in favour of applicant. It is submitted that the learned Board as well as the appellate Court both have failed to see that none of circumstances/grounds, as provided

under Section 12 of the Juvenile Justice (Care & Protection of Children) Act, exists in the present case based on which bail could be declined to the applicant. He submits that infact present is a case of love-affair between applicant and prosecutrix, which turned bitter resulting into registration of FIR against the applicant. The applicant has no criminal past and he is in detention since 13.10.2019 In these circumstances, both the orders impugned herein are liable to be set aside and the applicant deserves to be released on bail.

3. Learned State Counsel opposes the petition and submissions made in this respect. It is submitted that looking to the nature and gravity of offence committed and the fact mentioned in the social status report that the applicant lives in association of criminal elements, therefore, it is better to keep him under institutional care, no interference is required in the impugned orders.
4. I have heard both the parties and perused the documents present on record.
5. Considered on the submission made by the counsel from both the sides. The nature and gravity of offence committed cannot be a ground to decline bail to a juvenile. It is mentioned in the social status report that behavior of the applicant with his family members and friends is polite and that because of the influence of other persons in his group, he may have committed the offence. There is no clear mention that the applicant is constantly found in association with criminal elements. Thus, this report, which is in favor of the applicant, has not been properly appreciated by the Board as well as the appellate Court. Therefore, I am of this view that the Board as well as appellate Court both have committed error in passing the order of rejection of bail.
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 natural father on his furnishing a personal bond 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 the society. The applicant shall appear before the Board concerned as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha