

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 568 of 2020

Pinku Nishad, S/o. Narottam Nishad, Aged About 16 Years, Through : Natural Guardian Father Narottam Nishad, R/o. Ram Nagar, Police Station Rajim, District Gariyaband Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : The Station House Officer, Police Chowki Kareli Badi, Police Station Magarlod, District Dhamtari Chhattisgarh.

-----Respondent

For Applicant	: Mr. Raghavendra Pradhan, Advocate
For Respondent/State	: Mr. Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

18/09/2020

1. Challenge in this petition is to the order dated 05.06.2020, passed by learned Special Judge POCSO (FTC), Dhamtari, District – Dhamtari (C.G.), in Criminal Appeal No.28/2020, whereby the appeal preferred by the applicant/juvenile against the order of Magistrate, Juvenile Justice Board, Dhamtari, District – Dhamtari dated 27.05.2020, has been dismissed, whereby the applicant has been denied bail.
2. It is submitted that the applicant has been falsely implicated in this case. The applicant is juvenile-in-conflict with law. No case is made out against him. The prosecutrix has not supported the prosecution

case in her statement under Section 164 of Cr.P.C.. Further there was nothing against the applicant in the social status report given by the Probation Officer. Hence, the learned Board as well as the learned Appellate Court both have committed error in passing the impugned order. Interference is prayed for by this revision.

3. State counsel opposes the petition and grounds raised in this respect. It is submitted that the prosecutrix has made clear allegation against the applicant in her statement under Section 161 of Cr.P.C., therefore, the Board as well as the Appellate Court have not committed any error in passing the orders, therefore, no interference is needed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considered on the submissions and the facts of the case. There appears to be a discrepancy in the statement of the prosecutrix given at the investigation stage itself. There is nothing specific against the applicant in the report given by the Probation Officer on the basis of which it can be held that any exception is made out according to the proviso of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000, therefore, this Court is of the view that the orders passed by the Board as well as by the Appellate Court both are not sustainable.
6. Consequently, revision petition is allowed. The order dated 05.06.2020, passed by Special Judge POCSO (FTC) Dhamtari, District – Dhamtari (C.G.), in Criminal Appeal No.28/2020 is set-aside. It is directed that on furnishing a surety of Rs.25,000/- along

with a bond of same amount, which is to be of his father to the satisfaction of the concerned Juvenile Justice Board, for his appearance as and when directed, then the applicant shall be given in custody of his natural father.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram