

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 573 of 2020

Jaydev Tandi @ Golu wrongly mentioned as Goli, S/o. Shri Mahesh Tandi, aged about 15 years, Through : His Guardians Mahesh Tandi, S/o. Shri Mukaro Tandi, aged about 45 years, R/o J3 /44, Behind Street No. 8, Sector 5, Ward 44, Civic Centre, Bhilai Nagar, Tahsil and District Durg Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : District Magistrate, Durg, District Durg Chhattisgarh.

-----Respondent

For Applicant	: Mr. B.P. Singh, Advocate
For Respondent/State	: Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

29/09/2020

1. Challenge in this petition is to the order dated 14.05.2020, passed by learned Additional Sessions Judge (FTC) and Special Court (POCSO Act), Durg, District – Durg (C.G.), in Criminal Appeal No.992/2020, whereby the appeal preferred by the applicant/juvenile against the order of Magistrate, Juvenile Justice Board, Durg, District – Durg dated 25.04.2020, 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 social status-report of the applicant mentions that the applicant does not have any criminal antecedents otherwise also the report had been in his favour. The order passed by the Courts below is based on the gravity of the offence, which should not be

the criteria for grant or rejection of bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000. Hence, the Appellate Court as well as the Board both have committed error in passing the order of rejection. Interference is prayed for by this revision.

3. State counsel opposes the petition and the grounds raised in this respect. It is submitted that the considerable quantity of the brown sugar has been seized from the possession of this applicant along with cash amount, which clearly establishes the offence against him. Hence, the Courts below have not committed any error in passing the impugned order, 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 also the facts of the case. Social status-report shows that the applicant does not have any criminal antecedents. Apart from that, it is his father, who is seeking his custody, therefore, if he is released on bail, the applicant may be disciplined by his father and he will get family atmosphere to live and improve his personality and conduct, therefore, on the basis of the social status-report that was present before the Board and the Appellate Court, the jurisdiction should have been exercised in favour of the applicant and by not doing so, both the Courts below have committed error. 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 14.05.2020, passed by learned Additional Sessions Judge (FTC) and Special Court (POCSO Act), Durg, District – Durg (C.G.), in Criminal Appeal No.992/2020 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 father.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram