

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 577 of 2020

1. Joy Lavocah, S/o Shri Guyden (wrongly mentioned as Garden in the order sheet) Lavocah, Aged About 17 Years Minor, Through Natural Guardian - Mother Mamta Lavocah, W/o Shri Guyden Lavocah, Aged About 40 Years, R/o Govind Nagar, Sirgitti, Police Station - Sirgitti, District - Bilaspur (C.G.)
2. Sumeet Upvanshi, S/o Munna (wrongly mentioned as Mulla in the order sheet) Upvanshi, Aged About 17 Years, Minor, Through Natural Guardian - Mother Meena Upvanshi, W/o Shri Munna Upvanshi, Aged About 40 Years, R/o Durga Bada, Tarbahar, Police Station - Tarbahar, District – Bilaspur (C.G.)-- **Applicants**

Versus

State of Chhattisgarh, Through Station House Officer, Police Station - Sirgitti, District - Bilaspur (C.G.) **--- Respondent**

For Applicants	:	Mr. Dharmesh Shrivastava, Advocate.
For State/ Respondent	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05/10/2020

1. Challenge in this revision petition is to the order dated 14.07.2020, passed by learned Additional Session Judge (F.T.C.), Bilaspur, District- Bilaspur (C.G.) in Criminal Appeal No. 78/2020, whereby the appeal preferred by the applicants/ juvenile against the order of Principal Judge Juvenile Justice Board, Bilaspur (C.G.) dated 01.07.2020, has been dismissed, whereby the applicants have been denied bail.
2. Learned counsel for the applicants submits that the applicants are innocent and have been falsely implicated in this case. Their name has not appeared in the FIR and the other statement of the witnesses and neither there is any specific role played by

them. The social status reports had been in favour of the applicants, which mentions that this is first offence registered against these applicants. The only reason for rejection of bail prayer of these applicants was that the application was filed shortly after their arrest. There is no specific ground present according to the proviso of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 for rejection of bail. The Board as well the appellate court, both have not appreciated the same and denied bail to the applicants, therefore, the impugned order and the order of the Board suffer from infirmity, which are not sustainable and interference is prayed for. It is also prayed that this revision petition may be allowed and the relief may be granted to the applicants.

3. Learned State counsel opposes the petition submitting that there is charge of commission of heinous offence of murder against these applicants. The witnesses have clearly stated about presence of these applicants. Although, they have not named these applicants, but they have been identified in the test identification parade conducted during investigation. Looking to the case of heinous offence of murder, release of these applicants would certainly against and ends of justice. No case is made out in favour of the applicants and no error has been committed by the Board as well as appellate court, therefore, they are not entitled for grant of bail.
4. I have heard learned counsel for the parties and perused the documents placed on record.

5. Considered on the submissions as well as the facts and circumstances of the case. It is found that these applicants were not named in the FIR and in the statement of the witnesses. There is no other witnesses, who clearly and specifically named the applicants. On the basis of social status report, it is clear that they have no criminal history and the applicants have no criminal antecedents and that they are living in family atmosphere. The applicants are students in school. The exception that is required to be made out under Section 12 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 is not present. Hence, order of both the courts below, are not sustainable, therefore, I feel inclined to allow this revision petition.
6. Consequently, the order dated 14.07.2020, passed by learned Additional Session Judge (F.T.C.), Bilaspur, District- Bilaspur (C.G.) in Criminal Appeal No. 78/2020, is set-aside. It is directed that on furnishing a surety of Rs. 25,000/- each along with a bond of same amount each, which is to be of his guardian/Mother– Mamta Lavocah & Meena Upvanshi respectively, to the satisfaction of the concerned Juvenile Justice Board, for their appearance as and when directed, then the applicant shall be given in custody of their natural guardian/mother.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge