

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 678 of 2020

1. Kamlesh Behra, S/o Robin Behra Aged About 16 Years, R/o DMC Taalab Para Ward 18 Kumhari, District-Durg, Chhattisgarh Minor Through his father Robin Behra, S/o Late Lacchin Behra, aged about 46 years, R/o DMC Taalab Para Ward 18, Kumhari, District-Durg, Chhattisgarh.
2. Shahil Singh, S/o Mahnga Singh, aged about 16 years, R/o, DMC Taalab Para Ward 18 Kumhari, District-Durg, Chhattisgarh Minor Through his sister Simran Sevatkar, W/o Chandan Sevatkar, aged about 22 years, R/o Ward 10, Shankar Nagar Kumhari, District-Durg, Chhattisgarh.

--- Applicants

Versus

1. State of Chhattisgarh, through District Magistrate District- Durg, (C.G.)

--- Respondent

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CRR No.623 of 2020

1. Gourav Kurrey, S/o Anek Kurrey, aged about 16 years, R/o- Village Kugda, Ward No.22, P.S.Kumhari, District-Durg, Chhattisgarh, Minor Through his father Anek Kurrey, S/o Late Budharu Ram Kurrey, aged about 46 years, R/o Village Kugda, Ward No.22, P.S. Kumhari, District-Durg, Chhattisgarh.

Versus

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

For Applicant	:	Mr. Avinash Chand Sahu, Advocate.
For State/ Respondent	:	Mr. Vimlesh Bajpai, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09/11/2020

1. Both the revision petitions have been brought against the order dated 20.8.2020, passed by learned Additional Sessions Judge, 4th FTC, Durg, District-Durg in Criminal Appeal No.1769/2020 and Criminal Appeal No.1770/2020.
2. Challenge in these revision petitions is to the order dated 15.07.2020, passed by learned Additional Session Judge Dhamtari, District- Dhamtari (C.G.) in Criminal Appeal No. 34/2020, whereby the appeal preferred by the applicant/ juvenile against the order of the Juvenile Justice Board, Durg (C.G.) dated 04.06.2020 passed in Criminal Case No. 99/2020, has been dismissed and applicants have been denied bail.
3. Learned counsel for the applicants submits that both the courts below have committed error in passing order of rejection. There is nothing against this applicants in social status report on the basis of which, they would have been refused bail. The gravity of offence has been taken into consideration. Main accused Mithlesh Singh has been granted bail. The allegation against applicants in both these cases is only to this extent that they assisted main accused in abduction of the prosecutrix, therefore, the applicants have strong case for grant of bail. The impugned orders in both the petitions suffer from infirmity, which are not sustainable and interference is prayed for. It is also prayed that

these revision petitions may be allowed and the relief, as prayed for, may be granted to the applicants.

4. Learned State counsel opposes the petitions submitting that it is a case of planned abduction and sexual exploitation of prosecutrix and all the applicants have equally acted in the commission of offence of the abduction, which would be an act within the definition of gang rape, therefore, no case is made out in favour of the applicants. No error has been committed by the Board as well as appellate court, therefore, they are not entitled for grant of bail.
5. I have heard learned counsel for the parties and perused the documents placed on record.
6. Considered on the submissions as well as the facts and circumstances of the case. After considering on the social status report that is present with respect to the applicants in the both the petitions, I am of this view that there is no mention in the said report that release of applicants would bring them in association with criminal elements or such a release would expose them to mental, physical and psychological danger or defeat the ends of justice. There is no specific reason present according to the proviso of Section 12 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 for rejection of bail prayer. The Board as well as the appellate court have not appreciated the report as well as other circumstances present, which are in favour of the applicants, hence, orders of both the

courts below, are not sustainable, therefore, I feel inclined to allow both the revision petitions.

7. Consequently, the order dated 20.08.2020, passed by learned Additional Session Judge, 4th FTC, Durg, District- Durg (C.G.) in Criminal Appeal No. 1769/2020 & 1770/2020, are set-aside. It is directed that on furnishing a surety of Rs. 25,000/- each along with a bond of same amount, which is to be of guardian/father/sister of respective applicant, to the satisfaction of the concerned Juvenile Justice Board, for their appearance as and when directed, the applicants shall be given in custody of their natural guardians/father/sister.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge