

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 649 of 2020

Maniram Jani S/o Shri Jagbandhu Jani Aged About 16 Years Through Mother And Natural Guardian Smt. Kunju Jani, W/o Shri Jagbandhu Jani, 35 Years, R/o Narsingguda, Tah. Nandahadi, P.S. Tentukhuti, District Navrangpur (Orissa), District : Nabarangapur *, Orissa.

---- Applicant

Versus

State Of Chhattisgarh Through The Collector Bastar, Jagdalpur, Distt. Bastar (Chhattisgarh), District : Bastar(Jagdalpur), Chhattisgarh.

---- Respondent

For Applicant	: Shri Keshav Dewangan, Advocate.
For Respondent/State	: Mr. Adil Minhaj, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

11-12-2020

Heard.

1. This criminal revision petition has been brought being aggrieved by the order dated 20.12.2019 passed in Criminal Appeal No. 53 of 2019 by the Learned First Additional Sessions Judge, Bastar at Jagdalpur, dismissing the appeal and upholding the rejection order passed by the Chief Magistrate, Juvenile Justice Board, Bastar at Jagdalpur.
2. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. According to the facts of the case, there is no material to show that the applicant was involved in the commission of crime as he was only given lift in a vehicle by the other co-accused persons. There is no previous antecedents of this applicant. The social status report was not at all against this applicant even then his prayer for bail has been dismissed by the Courts below. Hence, the rejection orders passed by the Courts below are erroneous

and it is prayed that the same be interfered by allowing this revision petition and granting relief to the applicant.

3. Learned counsel appearing for the respondent/ State opposes the submissions so made and submits, that it is a case of commission of offences under the Explosive Substances Act and the Unlawful Activities (Prevention) Act, which are serious offences. These offences are scheduled offences under The National Investigation Agency Act, 2008 (for short 'the Act, 2008). Therefore, any order of bail rejection by the Special Court can be challenged only in appeal under Section 21 of the Act, 2008 before the High Court, hence, the present petition is not maintainable. It is further submitted that according to the merits of the case, the applicant has been found involved in the commission of serious crime, therefore, learned Courts below have not committed any error in passing orders of rejection. The present revision petition be dismissed.
4. The objection raised by the State counsel is firstly dealt with.
5. The offences under the Unlawful Activities (Prevention) Act, 1957 are included in the schedule of National Investigation Agency Act, 2008 which is a general enactment made applicable to the citizens of India within and outside. The word 'juvenile' has been used in a different context in Juvenile Justice (Care and Protection) of Children Act, 2015. Any enactment general or special provided for penalty to the persons accused of commission of offences, who are major i.e. of age above 18 years. For a juvenile, the penal laws be of any enactment become generalized for the purposes of dealing with a juvenile offender. Therefore, the word that is used in the Juvenile Justice (Care and Protection) of Children Act, 2015 is "Child in conflict with law". The definition is given under Section 2(13) of the Act, 2015 which says that

child in conflict with law means a child who is alleged or found to have committed an offence and who has not completed 18 years of age on the date of commission of such offence.

6. In the statement of objects and reasons of the Juvenile Justice (Care and Protection) of Children Act, 2000, the review of the working committee of the Juvenile Act, 1986 is mentioned, that greater attention is required to be given to children in conflict with law. The justice system-as available for adult is not considered suitable for being applied to a juvenile or the child or anyone on their behalf including the police, voluntary organizations, social worker or parents or guardians throughout the country. This is the idea of dealing with the juvenile or child in conflict with law. Apart from the various conventions of United Nations, which have been followed to bring such an enactment and the new Act i.e. Juvenile Justice (Care and Protection) of Children Act, 2015, therefore, the juvenile is a different class. The offences that are provided in general and special enactments are needed only for reference in cases against the juvenile, whereas a juvenile cannot be proceeded according to the procedure laid down by general or special enactment and he also cannot be punished according to such enactment. The Juvenile Justice (Care and Protection) of Children Act, 2015, which is the law in force at present provides for the procedure which shall be adopted in the matter of bail proceedings and the proceedings of enquiry before the Juvenile Justice Board. There is no provision under the National Investigation Agency Act, 2008 to over-ride the provision under the Juvenile Justice (Care and Protection) of Children Act, 2015.
7. In this case, the matter was initiated by filing application for grant of bail before the Juvenile Justice Board under Section 12 of the Act, 2015

which was rejected on 13.11.2019. The appeal was filed before the Appellate Court under Section 101 of the Act, 2015 and the same has been rejected by the impugned order, therefore, the present revision has been filed. On the basis of the discussions made herein-above, I am of this view that the objection raised by the State counsel with respect to the maintainability of the present petition is without any substance, therefore, the objection is overruled.

8. Considered the submissions and the facts of the case. The facts and gravity of offence against a juvenile are not the consideration for grant or rejection of bail to a juvenile under Section 12(1) of the Act, 2015. Rejection order can be passed only in presence of circumstances which are laid down in the proviso to Section 12(1) of the Act, 2015, that there is possibility of the juvenile being associated with criminal elements, there is possibility of his being exposed to moral, physical or psychological danger or that his release on bail would defeat the ends of justice.
9. After considering the social status report given by the Probation Officer with respect to this applicant, I am of this view that no such circumstances exist, and therefore, it is found that the Juvenile Justice Board and the Appellate Court both have committed error by making wrong appreciation of the report of Probation Officer. Hence, this revision petition is fit to be allowed.
10. Accordingly, the revision petition is allowed. The impugned order of the Appellate Court and the order of the Juvenile Justice Board are set aside and the application for grant of bail to the applicant is allowed. It is directed that on furnishing of a personal bond in the sum of Rs.25,000/- by natural guardian of the applicant with one surety in the like sum to the satisfaction of the concerned Court, for appearance of

the applicant as and when directed, the applicant shall be given in custody of his natural guardian.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi