

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 1537 of 2019

- Ayansh @ Rishu Tiwari S/o Ambika Tiwari, Aged About 16 Years, Through Natural Guardian Ambika Tiwari, R/o Village Parastarai, Police Station- Dharsiva, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh (Juvenile in jail)

---- Applicant

Versus

- State of Chhattisgarh through Station House Officer, Police Station Dharsiva, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

--- Non-applicant

For Applicant– Shri Rahim Ubwani, Advocate.

For State/Non-applicant – Shri Roshan Dubey, Panel Lawyer.

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

10-02-2020

Heard.

1. This revision has been brought challenging the impugned order dated 15-11-2019 passed by the Court of 7th Additional Sessions Judge, Raipur, Chhattisgarh in Criminal Appeal No.530/2019 dismissing the appeal and upholding the order of the Juvenile Justice Board passed against the applicant.
2. It is submitted that the applicant was innocent and he has been falsely implicated in this case. The social status report was in favour of the applicant even then the Juvenile Justice Board and the appellate Court have not appreciated the same and passed erroneous order. Therefore, it is prayed that this revision be allowed and the applicant may be benefited with grant of bail.
3. Learned counsel for the State/respondent opposes the petition submitting that there is serious charge against the applicant for ravishing a girl child of age 6 years, therefore, he is not entitled for grant of bail.
4. Heard learned counsel for the parties and perused the documents.
5. The applicant is being proceeded against for commission of offence under Section 376 of the IPC and Section 4 and 6 of POCSO Act before the

Juvenile Justice Board. The social status report submitted mentions that the applicant is engaged in studies and he has brought good result in class 10. There is no report about his association with criminal elements and apart from that, his custody is being sought by his own natural father, therefore, for these reasons, it was a case in which relief could have been granted by the courts below. Section 12 of the Juvenile Justice (Care and Protection of Children) Act very clearly provides that bail is rule and denial of bail is exception and that exception too has to be followed in special case where there is likelihood of the juvenile being exposed to moral, physical or psychological danger or that his release will defeat of the ends of justice or that he may be associated with criminal elements. There is no such report on this point in the report submitted by the Probation Officer. Therefore, this is a fit case where the applicant should have been granted bail.

6. Therefore, the revision petition is allowed and 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 his parent or guardian with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed, then he shall be given in custody of his parent or guardian.

Sd/-
(Rajendra Chandra Singh Samant)
Judge