

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.R. No.1617 of 2019

- Shekhar Bhatri S/o Late Balister Bhatri, Aged About 16 Years 07 months
R/o Village Lavar, P.S. Simga, District Baloda Bazar Bhatapara
Chhattisgarh Represented Through Natural Guardian- Mother Kalindari
Bai, Aged About 40 Years, R/o Village Lavar, P.S. Simga, District Baloda
Bazar Bhatapara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, District Baloda Bazar
Bhatapara Chhattisgarh

--- Non-applicant

For Applicant – Shri Hemant Gupta, Advocate.

For State/Non-applicant – Shri Sanjay Pathak, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-02-2020

Heard.

1. This revision has been brought challenging the impugned order dated 09.12.2019 passed in Criminal Appeal No.117/2019, by Special Judge, (POCSO), Baloda-Bazar, District- Baloda-Bazar, Bhatapara, C.G. by dismissing the appeal filed by the applicant.
2. It is submitted that the applicant was innocent and he has been falsely implicated in this case and is in custody in observation home since 08.11.2019. the learned Juvenile Justice Board, appellate Court both have committed error in rejecting the prayer of the applicant for grant of bail. The social status report was in favour of the applicant, 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 a charge of committing heinous offence against the applicant and the age of the victim is only 13 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 Sections 376 and 506 of the IPC and Section 4 of POCSO Act and Section 75 of Juvenile Justice Act before the Juvenile Justice Board. The social status report is positive in favour of the applicant as it appears that this applicant does not have criminal antecedents and there is no possibility of him associating with criminal elements and the mother of the applicant is praying for his custody, therefore, it is a fit case where the applicant should have been benefited with grant of bail. 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. I do not find any ground present for the exception to be followed in this case. 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