

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 11 of 2021

Aman Kumar Kashyap S/o Shri Mayaram Kashyap Aged About 16 Years Through Guardian (Father) Mayaram Kashyap S/o Bodhan Kashyap Aged About 40 Years, R/o Village Kataud, P.S. And Tahsil Nawagarh, District Janjgir Champa Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through S.H.O. P.S. Nawagarh, District Janjgir Champa Chhattisgarh.

---- Respondent

AND

CRR No. 13 of 2021

Tarjan Kumar Madhukar S/o Shri Santosh Kumar Madhukar Aged About 16 Years Through- Guardian (Mother) Smt. Kusum Madhukar, W/o Santosh Kumar Madhukar, Aged About 34 Years, R/o Village - Kataud, Police Station And Tahsil Nawagarh, District Janjgir Champa, Chattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through - Station House Officer, Police Station Nawagarh, District Janjgir Champa, Chhattisgarh.

---- Respondent

For Applicant	: Shri Ravindra Sharma, Advocate in CRR No.11 of 2021 and Shri K.A. Ansari, Senior Advocate with Shri Aman Ansari, Advocate in CRR No.13 of 2021.
For Respondent/State	: Shri Gurudev I. Sharan, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

8-3-2021

Heard.

1. Both the revision petitions arise out of the same order dated 26.12.2020 passed by the learned Additional Sessions Judge (FTC), Janjgir, District Janjgir-Champa in Criminal Appeal No. 58 of 2020, dismissing the

appeal of the applicants in both the cases filed under Section 101 of the Juvenile Justice (Care & Protection of Children) Act, 2015 (for short 'the Act, 2015') and upholding the order of bail rejection passed by the Juvenile Justice Board. Hence, both the revision petitions are being disposed off by this common order.

2. It is the submission of counsel for the applicants in both the cases, that the applicants are innocent and they have been falsely implicated. The FIR lodged in this case was against the unknown persons and the name of these applicants appeared in the memorandum statement of the co-accused persons. The Investigating Officer could not find any eyewitness at the early stage of investigation. One eyewitness has been examined after passing of three months from the date of incident. Therefore, it is a concocted case against these applicants who are children in conflict with law.
3. Reliance has been placed on the judgment of this Court in the case of **Shani Birbal vs. State of Chhattisgarh**, reported in **2016 LawSuit (Chh) 769**. The social status report is in favour of these applicants which has not been appreciated by the Juvenile Justice Board and also by the Appellate Court and thus, erroneous orders have been passed which are unsustainable. Hence, it is prayed that both the revision petitions be allowed and the applicants be granted bail.
4. Learned counsel appearing for the respondent/ State opposes the submissions so made and submits, that the offence of murder has been committed in this case, which is a heinous offence as defined under Section 2(33) of the Act, 2015 and looking to the direct evidence present against these applicants it is certain that the release on bail would defeat the ends of justice.

5. Reliance has been placed on the judgment of Allahabad High Court in the case of **Raju @ Ashish vs. State of U.P. and Another** in **CRR No.2492 of 2017** dated 3.7.2018. The social status report does not favour these applicants, therefore, the Board as well as the Appellate Court both have not committed any error in passing orders of rejection. Hence, the revision petitions be dismissed.
6. Considered the submissions. The prosecution case is that deceased – Rajju Prasad Tiwari used to make demand of the money lent by him to co-accused – Santosh Madhukar because of which, Santosh Madhukar felt harassed. It is alleged that Santosh Madhukar conspired with other accused persons including these applicants and then murdered deceased – Rajju Prasad Tiwari by inflicting fatal knife injuries on his body. There is one eyewitness of this incident, who has stated about seeing these applicants inflicting knife injuries to the deceased.
7. In the social status report it was recommended that the applicants should be kept in institutional care. One thing cannot be ignored that main accused - Santosh Madhukar is the father of applicant – Tarjan Kumar Madhukar, on which basis the learned Appellate Court has observed that there are chances that the applicants may be associated with criminal elements and their release on bail would defeat the ends of justice. It has been observed by the Allahabad High Court in the case of **Raju @ Ashish vs. State of U.P. and Another** (supra) and in the judgment of the Supreme Court in the case of **Om Prakash vs. State of Rajasthan and Another**, reported in **(2012) 5 SCC 201** that in case of heinous offences like rape, murder, gang rape etc. the nature and gravity of the offence would be relevant and thus, the exception can be made out in the matter of grant of bail under Section 12 of the Act, 2015.

8. After considering the facts of the case and also the social status report given by the Probation Officer with respect to these applicants, I am of this view that the learned Board and the learned Appellate Court both have not committed any error in dismissing the bail plea of the applicants. Hence, both the revision petitions are devoid of substance which are dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi