

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 27 of 2021

Rajesh @ Rajendra @ Khelan, S/o. Santram, aged about 17 years, Through : natural guardian father – Santram, S/o. Dalgan, aged about 43 years, R/o. - Village - Barghat, Police Station - Taregaon Jungle, Tehsil - Bodla, District Kabirdham, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station Kawardha, District Kabirdham Chhattisgarh.

-----Respondent

For Applicant	: Mr. Basant Dewangan, Advocate
For Respondent/State	: Mr. Gurudev I. Sharan, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/02/2021

1. Challenge in this petition is to the order dated 06.01.2021, passed by Special Judge (POCSO) Act (FTC), Kabirdham, District – Kabirdham (C.G.), in Criminal Appeal No.27/2020, whereby the appeal preferred by the applicant/juvenile against the order of Principal Magistrate, Juvenile Justice Board, Kabirdham, District – Kabirdham in Crime No. 701 of 2020 dated 16.12.2020, has been dismissed, whereby the applicant has been denied bail.
2. It is submitted that the applicant has been falsely implicated in this case. There is no allegation of gang rape against this applicant. The social status report had been in favour of this applicant, which was not appreciated by the Board as well as by the appellate Court, therefore, the orders of rejection passed are erroneous and liable to

be set-aside. Therefore, it is prayed that this revision petition be allowed and the applicant be granted bail.

3. State counsel opposes the petition and grounds raised in this respect. It is submitted that this applicant was having affair with the minor prosecutrix of age 14 years and on the date of incident, the applicant and the prosecutrix both had a meeting and were returning, when the incident occurred in which the other juvenile offenders and co-accused persons stopped and raped the minor prosecutrix. Therefore, the Board and the appellate Court have not committed any error in passing the rejection order looking to the gravity of the offence. Hence, the revision petition be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considered on the submissions and the facts of the case. The gravity of the offence can not be made a ground for rejection of bail to a juvenile in conflict with law under Section 12 of the Juvenile Justice (Care & Protection of Children) Act. Social status report given by the Probation Officer does not make out any of the circumstances, which are required under the proviso to Section 12 (1) of the Juvenile Justice (Care & Protection of Children) Act. Therefore, this Court is of the view that the orders passed by the Board as well as by the Appellate Court both are not sustainable.
6. Consequently, revision petition is allowed. The order dated 06.01.2021, passed by Special Judge (POCSO) Act (FTC), Kabirdham, District – Kabirdham (C.G.), in Criminal Appeal No.27/2020, is set-aside. It is directed that on furnishing a surety of

Rs.25,000/- along with a bond of same amount, which is to be of his father to the satisfaction of the concerned Juvenile Justice Board, for his appearance as and when directed, then the applicant shall be given in custody of his natural guardian.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram