

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****Criminal Revision No.280 of 2021**

- Navin Vidhani S/o. Ramkumar Vidhani, aged about 17 years, R/o. Block No.8, Mahoba Nagar Police Station Kabirnagar District Raipur (CG) Through his legal guardian father Ramkumar Vidhani, S/o. Manohar Lal Vidhani, aged about 47 years, R/o. Block No.8, Mahoba Nagar, Police Station Kabirnagar, Distt. Raipur (CG)

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer of Police Station Telibandha, Raipur Distt. Raipur (CG)

---- Respondent

 For Applicant : Shri Awadh Tripathi, Advocate
 For respondent/State : Shri Dinesh Tiwari, Dy. Govt. Advocate
 For Objector : Shri Ankur Agrawal, Advocate

Hon'ble Shri Justice N.K. Chandravanshi**Order On Board****19.7.2021.**

1. Challenge in this revision petition is to the order dated 05.3.2021 passed by Child Court/Additional Sessions Judge, FTC, Raipur (CG) in Criminal Appeal No.42/2021 whereby the appeal preferred by the applicant/ juvenile against the order of the Juvenile Justice Board, Mana Camp Raipur (CG) dated 19.02.2021 has been dismissed wherein applicant/juvenile was denied bail.

2. It is submitted by learned counsel for the applicant/juvenile that the applicant has been falsely implicated in this case, he is in Observation Home since 16.12.2020. Learned counsel for the

applicant further submits that special provision has been enumerated under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and nothing against the applicant has been stated in the Social Investigation Report against the applicant/juvenile. Despite this, the learned Court below without properly considering on the facts of the Social Investigation Report as well as the law, refused to grant him bail assuming possibility of the applicant being in association with known criminals. He further submits that the impugned order and the order of Juvenile Justice Board are erroneous, which are not sustainable, therefore, the revision petition may be allowed and relief may be granted to the applicant.

3. Learned counsel for the State while opposing the revision petition submits that the applicant has not only committed the offence but also taken photographs of the victim/prosecutrix and by blackmailing her extorted huge amount of money from her. He further submits that according to the Social Investigation Report, the applicant is under the influence of anti-social environment and he is also not following the rules of the Observation Home, which shows his negative behaviour and further he has no regret about his act, therefore, the learned courts below have not committed any error in passing the impugned orders, thus, the revision may be rejected

4. Learned counsel for the objector on behalf of the victim/prosecutrix submits that the applicant was not juvenile during the

period of the incident. Documents regarding his date of birth are forged and fabricated to gain the benefit of juvenile. He further submits that in some documents, i.e. Aadhar card, the date of birth of the applicant is shown as 10.10.2000 and in some other document his date of birth is shown as 10.10.2002, but his name is not mentioned in the birth certificate which has been taken from the Choice Centre.

5. In rebuttal, learned counsel for the applicant submits that the documents submitted by the Objector are not true documents of the applicant. He further submits that in the mark sheets of Class-X and KG-I and even in the Aadhar Card of the applicant, date of birth of the applicant has been shown as 10.10.2002 and the said documents have been filed in the Court today. The applicant was juvenile during the said period of offence, therefore, the police itself has filed charge sheet of this case before the Juvenile Justice Board, Mana Camp, Raipur.

6. I have heard learned counsel for both the parties, perused the documents placed on record and considered the submissions made by counsel for both the parties.

7. Learned counsel for the objector on behalf of the victim/prosecutrix has submitted his objection regarding juvenility of the applicant during the period of the incident. But mark sheet of Class-X and KG-I and Aadhar Card shows date of Birth of the applicant as 10.10.2002 which shows that during the period of the incident, the applicant was juvenile.

8 If the victim/prosecutrix has any objection regarding the date of birth and age of the applicant during the period of incident of this case, then she may file objection in this context before the Juvenile Justice Board and the said Board can decide this issue as per the law, but so far as this revision is concerned, document filed by the applicant prima facie shows that he was juvenile during the period of the incident of this case.

9. In the Social Investigation Report dated 25.5.2021, which has been enclosed with the case diary, it has been mentioned that the applicant was under the influence of anti-social environment and committed alleged act under the influence of adolescence phyosis. It is also mentioned that he did not follow the rules of the Observation Home and this attitude shows his indiscipline and misbehaviour. It has also been mentioned that there is no possibility regarding his connection with criminal elements.

10. Certified copy of the Social Investigation Report dated 26.12.2020, which has been filed by the applicant shows that this is first act of the applicant against the law and if he is granted bail then there is no possibility of being contacted with known criminals and also his release would not defeat the ends of justice. No any circumstance has been mentioned in both the Social Investigation Report of the applicant which may be a ground for dismissal of the bail to a juvenile under the proviso to Section 12(1) of the Juvenile Justice (Care and Protection of

Children) Act, 2015. the applicant is in Observation Home since 16.12.2020. The Board as well as the appellate Court, both have committed error in not appreciating the social investigation report and above provision properly and rejected the bail of the applicant/juvenile. Hence, I am inclined to allow this revision petition.

11. Consequently, the revision is allowed. The order dated 05.3.2021 passed by the Child Court/Additional Sessions Judge, FTC, Raipur (CG) in Criminal Appeal No.42/2021 is set aside. It is directed that on furnishing a surety of Rs.50,000/- along with a bond of same amount which is to be of his natural guardian/father/mother, 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/father/mother.

Certified copy as per rules.

Sd/-
(N.K. Chandravanshi)
JUDGE