

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 293 of 2021

Jagmohan Sahu, S/o Ram Prasad Sahu, Aged About 17 Years, R/o Bhatagaon, Bazaar Chowk, P.S. - Purani Basti, District- Raipur (C.G.)

--- Applicant

Versus

State of Chhattisgarh, through: the Station House Officer, Police Station- Purani Basti, District – Raipur (C.G.)

--- Respondent

For Applicant : Mr. U.N.S. Deo, Advocate.

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

Hon'ble Shri Justice Narendra Kumar Vyas

Order on Board

31/05/2021

1. This revision petition has been filed by the juvenile/applicant challenging correctness and validity of the order dated 01.02.2021 passed by learned Additional Sessions Judge (F.T.C.) Raipur, District- Raipur (C.G.) in Criminal Appeal No. 11/2021, whereby the order of rejection of bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short "the Act, 2015") has been affirmed. The applicant, who is juvenile in conflict with law, is alleged to have committed offence under Section 307, 394, 34 of I.P.C. and Sections 25 & 27 of the Arms Act. The age of the applicant is stated to have been 17 years.

2. The applicant moved an application before the Juvenile Justice Board for grant of bail under Section 12 of the Act, 2015. Vide order dated 17.12.2020, the Board rejected the bail application, thereafter, the appeal under Section 101 of the Act, 2015, has been filed before the appellate authority. By the impugned order dated 01.02.2021, the appellate authority also rejected the same.
3. Learned counsel for the applicant argued that in the present case, the Board as well the appellate authority have completely ignored the statutory mandate of Section 12 of the Act, 2015 and had committed irregularities in rejecting the bail application filed by the juvenile. Though, there are four accused persons in the crime in question out of which, two accused persons namely Vikas Yadav & Shailendra Dewangan @ Lucky have been granted bail under Section 439 of the Cr.P.C. by the learned First Additional Sessions Judge, Raipur vide order dated 15.02.2021 and 22.02.2021 respectively. Copy of the said orders are also enclosed with the bail application filed by the applicant, therefore, his bail application should have been allowed by the learned appellate authority. Rejection of the same suffers from material irregularity and illegality.
4. It is further submitted that as per the mandate of Section 12 of the Act, 2015, grant of bail is rule and rejection is exception to the general rule, only for the reasons exhaustively enumerated in the provision itself, the bail can be rejected by the Juvenile Justice Board. It is also submitted that as per report of the

Probation Officer, there is nothing to show that release will bring the juvenile in association with any known criminals or is likely to expose him to moral, physical and psychological danger. Further, submission is that no material was considered nor was available before the authorities to form an opinion that the release would otherwise defeat the ends of justice. Therefore, rejection of the application and appeal is illegal. The orders of bail rejection passed by both the courts below, are erroneous, which are not sustainable and interference is prayed for. It is also prayed that this revision petition may be allowed and the relief may be granted to the applicant.

5. On the other hand, learned State counsel opposes the petition and submits that release of the applicant is likely to put him in mental, physical and psychological danger. Therefore, rejection of bail application filed before the Board and affirmed by the appellate court is legal, justified and is not liable to be interfered with by this Court exercising revisionary power. Therefore, it is prayed that this revision petition may also be dismissed.
6. I have heard learned counsel for the parties and perused the case diary.
7. Perusal of the record of the court below reveals that vide order dated 17.12.2020, the Juvenile Justice Board has rejected the bail application filed on behalf of the applicant wherein, the ground for rejection has been taken by the Board is that the applicant/ juvenile, who is in conflict with law will improve his

conduct and also develop discipline while remain in custody of the Juvenile Justice Board.

8. Thus, finding is not based on material and even before affirming the said order dated 17.12.2020, the learned appellate authority has not taken into consideration any material for recording finding that rejection of the bail by the Juvenile Justice Board is legal. Thus, finding recorded by the Juvenile Justice Board affirmed by the appellate authority suffers from material irregularity, illegality and perversity, which is liable to be quashed.
9. On perusal of the record as well as the case diary, it is found that there does not appear to be any other material and circumstances placed on record to reach to conclusion that release of the applicant would either bring him in association with criminal known or except him to psychological danger or otherwise defeat the ends of justice. In absence of any such material or circumstances, the applicant is entitled to grant of bail when other two co-accused persons have already been granted bail by the learned First Additional Sessions Judge, Raipur vide its order dated 15.02.2021 and 22.02.2021, the applicant is also entitled to be released on bail. Therefore, I am of the view that the Board as well as the appellate court, both have committed error in rejecting bail to the applicant. Hence, for these reasons, I am inclined to allow this revision petition.
10. Consequently, the order dated 01.02.2021 passed by learned

Additional Sessions Judge (F.T.C.), Raipur (C.G.) in Criminal Appeal No. 11/2021, is set-aside. It is directed that on furnishing bail bond of Rs. 25,000/- along with one surety of the same amount by his 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 to custody of his natural guardian/father/mother.

Certified copy as per rules.

**Sd/-
(Narendra Kumar Vyas)
Vacation Judge**