

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
Proceedings through Video Conferencing

CR.R. No. 312 of 2021

Kartikeshwar Dewar @ Kartikey S/o Shri Kheluram Dewar aged about 14 Years through Guardian Mother Smt. Chandrakala Dewar, W/o Shri Kheluram Dewar, R/o Village - Badadaraha, Police Station - Dabhara, Civil and Revenue District – Janjgir-Champa, CG

Applicant

Versus

State of Chhattisgarh through - the District Magistrate Janjgir, Civil and Revenue District – Janjgir-Champa, CG

Non-applicant

 For Applicant : Shri Paras Mani Srivas, Adv.
 For non-applicant/State : Shri Afroj Khan, PL

Hon'ble Shri Justice N.K. Chandravanshi

Order on Board

30-7-2021

1. Challenge in this revision petition is to the order dated 5-5-2021 passed by learned Special Judge, F.T.C. (POCSO Act), Sakti, Distt. Janjgir-Champa in CR.A. No. 14/2021 whereby the appeal preferred by the applicant-juvenile against the order passed by the Juvenile Justice Board, Janjgir Distt. Janjgir-Champa dated 30-12-2020 in Criminal Case No. 12/2021 (State of Chhattisgarh -v- Pramod Kumar Mahant and another) has been dismissed, wherein the applicant was denied bail.

2. In compliance of notice issued to the prosecutrix/victim, she along with her mother appeared before this court through Video Conferencing from Help Desk of this Court and submitted that bail must not be granted to the applicant.

3. Brief facts of the case are that on 12-12-2020 at about 7.30 pm, applicant along with one Pramod Mahant, by threatening to kill, took the minor prosecutrix to Dongri Pahadi by holding her hands, legs and pressing mouth. They undressed her and Pramod Mahant committed rape with her. Present applicant pressed her breast. Thereafter they left her to her house and threatened to kill her if she discloses the things to anyone. On the next day, the

prosecutrix lodged report, on the basis of which offence under Sections 363, 366-A, 376 D, 506 (B) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012 has been registered against the applicant and said Pramod Mahant.

4. It is submitted by learned counsel for the applicant that the applicant is a 14 years young boy, he is innocent and falsely implicated in this case. He has not committed any misconduct during custody in the Observation Home. He is in observation home since 20-12-2020. Nothing negative report has been shown in his social investigation report. The main role in the crime is of Pramod Mahant who has been granted bail by the co-ordinate bench of this Court vide order dated 8-3-2021 passed in Cr.R. No. 114/2021. Therefore, the impugned orders of both the Courts below are erroneous and not sustainable. It is prayed that the revision petition may be allowed and bail may be granted to the applicant.

5. Learned State Counsel opposes the revision petition and submits that both the Courts below have not committed any error in passing the impugned orders. In the statement recorded under Section 164 of the Cr.P.C., the prosecutrix has clearly stated that both of them have committed bad act with her.

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 appellate Court has mentioned in its order that it is mentioned in the social status report of the applicant that if he is released, there is possibility that he may come to the contact of bad elements. Except the possibility, learned appellate Court has not mentioned anything in its order regarding the social investigation report of the applicant which may be a ground for denial of bail to a juvenile under the proviso to Section 12(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015. Looking to the fact that applicant is in observation home from 20-12-2020 as stated by learned counsel for the applicant, another juvenile of this case has already been granted bail, and other facts, I find that the Board as

also the appellate Court have committed error in rejecting bail to the applicant. Therefore, I am inclined to allow this revision petition.

8. Consequently, the revision is allowed. The order dated 5-5-2021 passed by learned Special Judge, F.T.C. (POCSO), Sakti in CR.A. No. 14/2021 is set aside. It is directed that on furnishing a surety of Rs. 20,000/- 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/-
(NK Chandravanshi)
Judge

Pathak/-