

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 601 of 2021

- D- Juvenile, S/o Surajbhan Tigga, Aged About 17 Years, Through Natural Guardian Father Surajbhan Tigga, Son of Late Suklal Tigga, Aged About 37 Years, Caste Uraon, R/o Village Raha, Police Station Pali, Tahsil Pali, District Korba Chhattisgarh.

---- Petitioner

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police Station Pali, Korba, District- Korba, Chhattisgarh.

---- Respondent

For Petitioner : Shri Govind Ram Miri, Senior Advocate
with Shri Basant Kaiwartya, Advocate

For State/Respondent : Shri Jitendra Shukla, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

20.10.2021

- 1) The present revision petition under Section 102 of Juvenile Justice (Care and Protection of Children) Act, 2015 has been preferred against the Judgment dated 18.02.2021 passed by the Children's Court, Katghora, District- Korba (C.G.) in Criminal Appeal No. 12/2021, upholding the order dated 03.02.2021 passed Principal Magistrate, Juvenile Justice Board, Korba, District-Korba in connection with Crime No. 22/2021 for the offence punishable under Sections 363, 366 (A), 376 (2), 376 (D), 366 A, 34 of IPC.
- 2) Case of the prosecution, in brief, is that on 17.01.2021 at about 3.30 pm when the prosecutrix accompanied with her two friends was going to Dumarkachhar Bajar, at that time co-accused Sukhsagar Mahant near Premsagar pond reached her and forcibly made her sit on his motorcycle and abused her, thereafter he took her towards Dhaurabhatha forest, where he made forcible sexual intercourse with the prosecutrix. After some time, he dropped her in the house of the Juvenile 'D' who also made forcible physical relation with her repeatedly. Later, co-accused Sukhsagar Mahant came to the house of the Juvenile 'D' and took her alongwith Juvenile 'D' & parents of the

Juvenile 'D' in the house of his Uncle (fufa) and subsequently the police party recovered the prosecutrix from the house of uncle of the co-accused Sukhsagar Mahant.

- 3) Learned counsel for the petitioner submits that Courts below were not justified in rejecting the bail application of the petitioner in view of omission and contradiction of the prosecutrix and other witnesses which makes the whole prosecution case doubtful. Even the medical evidence also does not support the prosecution case.
- 4) On the other hand learned State counsel opposing the revision submits that in this case charge has been framed against the petitioner under Sections 363, 366 (A), 376 (2), 376 (D), 366 A, 34 of IPC and Sections 5 & 6 of POCSO Act. As per Dakhil Kharij Register the prosecutrix was minor at the time of incident.
- 5) Considering the facts and circumstances of the case, the fact that at the time of incident the petitioner was about 17 years of age, trial against the present petitioner juvenile 'D' has commenced before Special Judge, POCSO, it is in progress, there are serious allegations against the petitioner Juvenile 'D' & co-accused, the age of the prosecutrix is to be determined by the trial Court after due appreciation of the evidence, as per Dakhil Kharij Register the prosecutrix appears to be minor, the evidence so far recorded before the trial Court cannot be appreciated at this stage by this Court, this Court finds no illegality or perversity in the impugned judgment rejecting bail application of the petitioner.
- 6) Accordingly, the revision is dismissed on the admission stage itself.

Sd/-

**(Gautam Chourdiya)
Judge**