

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CR.R. No. 632 of 2021

Hemant Bharti S/o Late Keshar Bharti aged about 17 Years R/o Kurud, P.S. Mandir Hasaud, District Raipur, CG through legal natural guardian cousin brother Pappu Lal Bharti, Son of Shri Videshi Ram Bharti, aged about 32 Years, Resident of Village Chandi, Tahsil Abhanpur, Raipur, District Raipur CG

----Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police
 Station Mandir Hasaud, District Raipur CG

----Non-applicant

 For Applicant : Shri Rekhraj Baghel, Adv.
 For non-applicant/State : Shri Wasim Miyan, Panel Lawyer.

Hon'ble Shri Justice N.K. Chandravanshi
Order on Board

1-10-2021

1. Challenge in this revision petition is to the order dated 31-8-2021 passed by learned Special/Upper Sessions Judge (FTC), Raipur in CR.A. No. 128/2021 whereby the appeal preferred by the applicant-juvenile against the order passed by the Principal Magistrate, Juvenile Justice Board, Mana Camp, Raipur dated 11-8-2021 pertaining to Crime No. 51/2021 registered at PS Mandir Hasaud, for offence under Sections 365, 376(D), 394 of the Indian Penal Code, has been dismissed, wherein the applicant was denied bail.

2. It is submitted by learned counsel for the applicant that the applicant is young boy of 17 years, he is innocent and falsely implicated in this case. He further submits that applicant is in observation home since 3-2-2021. He further submitted that only on the basis of memorandum he has been arrested. He has not looted any amount nor committed sexual intercourse with the prosecutrix. Nothing has been mentioned against him in the social investigation report. Despite that, by overlooking these facts and the provisions of Section 12(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, both the courts below have denied bail to the applicant, which is erroneous and not sustainable. It is prayed that the revision petition may be allowed and bail may be granted to the applicant.

3. Learned State Counsel opposes the revision petition and submits that both the Courts below have not committed any error in passing the impugned orders, thus, the revision may be rejected.

4. 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.

5. A perusal of social investigation report shows that the juvenile is in observation home since 3-2-2021. It has been mentioned in it that his institutional behavior is normal and there is need for his proper guidance and, there is no possibility of his coming into contact of known criminals. There is nothing in 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 3-2-2021, 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.

6. Consequently, the revision is allowed. The order dated 31-8-2021 passed by learned Special/Upper Sessions Judge (FTC), Raipur in CR.A. No. 128/2021 is set aside. It is directed that if applicant furnishes a surety of Rs. 20,000/- along with a bond of same amount which is to be of his natural guardian/cousin brother, 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/cousin brother. It is directed that if the juvenile is given in custody of his cousin brother, the trial court to verify about the status of his cousin brother.

Certified copy as per rules.

Sd/-
(NK Chandravanshi)
Judge