

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 715 of 2020

- Sheikh Afsar, S/o Sheikh Husain, Aged About 29 Years, R/o Father Bada, Guru Nanak Chowk, P.S.- Moudahapara, District-Raipur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through S.H.O. of Police Station-Telibandha Raipur, District : Raipur, Chhattisgarh

---- Respondent

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

06/01/2021

Heard.

1. This criminal revision is directed against the order dated 22.1.2020 passed in Criminal Appeal No.30/2020 by the (Juvenile Court) learned Additional Sessions Judge, Raipur, dismissing the appeal and upholding the order of bail rejection passed by the Juvenile Justice Board.
2. It is submitted by the counsel for applicant that the applicant was benefited with grant of bail under Section 437(6) of CrPC by the order of Sessions Judge, Raipur dated 5.12.2008. As the applicant could not give appearance on some dates fixed, the permanent warrant of arrest was issued against him. The applicant was arrested and presented on 3.1.2020 before the Juvenile Justice Board. His application under Section 12 of Juvenile Justice (Care & Protection of Children) Act was dismissed by the Board and then the appeal filed before the Sessions Judge has also been dismissed by the impugned order.
3. It is submitted that the applicant was already enjoying benefits of bail granted to him earlier, therefore, the only consideration that was

required to made by the Board and by the appellate Court was whether this absence before Board was bonafide or not. It is mentioned in the impugned order that on the fixed date on 2.6.2015 the applicant could not appear and his counsel gave intimation to the Board that the applicant is in custody in some other case registered against him. The production warrant was issued but the applicant was not produced pursuant to such production warrant, subsequent to which the warrant of arrest has been issued without mentioning any specific reason. The social status report is not altogether against the applicant even then the same was not appreciated in his favor by the Board and by the appellate Court, hence, order impugned and order of Board both are erroneous and liable to be set aside.

4. Learned counsel for State opposes the revision petition and also the submissions made by the counsel for applicant. It is submitted that there is a report of the Probation Officer, that as many as 06 criminal cases are registered against the applicant, therefore, the applicant is a habitual offender and that his conduct was also abnormal. Further, the reason has been given by the appellate Court, that from the date of his first appearance on 5.3.2015 upto 3.1.2020, the applicant never made an effort to inquire about the proceeding before the Board, hence, the order passed by the Board and by the appellate Court did not suffer from any infirmity, hence, revision petition be dismissed.
5. Considered on the submissions and the facts of the case. The social status report mentions about 05 previous cases which were registered against the applicant in the year 2003, 2004 and 2006. the applicant was granted default bail under Section 437(6) CrPC on 5.12.2008. There is no reporting regarding registration of any criminal case against this applicant subsequent to his release on bail. Hence, in this circumstance, it appears that there is no specific report about present conduct of the applicant or regarding his association with criminal elements at present or that there is any danger of him being expose to any moral, psychological or physical danger and also that in case he is again released on bail, such release would defeat the ends of justice, therefore, I am of this view that the Board and the appellate Court both have not appreciated the report of Probation Officer in the light of the present circumstances, regarding which the report is totally silent,

hence, I feel inclined to allow this criminal revision.

6. Consequently, this petition is allowed at the motion stage itself. The impugned orders passed by the appellate Court as well the Juvenile Justice Board are set aside and the application for grant of bail to the applicant herein is allowed. It is directed that the applicant shall be released on bail, upon furnishing a personal bond by his natural guardian i.e. mother, in the sum of Rs.25,000/-, with one surety in the like sum to the satisfaction of the Juvenile Justice Board, Durg, Chhattisgarh, with an undertaking of his mother that she will take care of the applicant and keep him away from the company of known criminals. The applicant shall appear before the Board concerned as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha