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**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CR.R. No. 756 of 2020**

1. Anup Markam, S/o. Late Sangram Markam, aged about 16 years,  
Through : his legal guardian mother Shanti Markam, W/o. Late Sangram Markam, aged about 45 years, R/o. Saraswati Nagar, Ward No. 34, Naya Para, Durg, P.S. Durg Kotwali, Tahsil and District Durg Chhattisgarh.
2. Shailendra Markam, S/o. Balram Markam, aged about 16 years,  
Through : his legal guardian mother, Smt. Shivkumari Markam, W/o. Balram Markam, aged about 34 years, R/o. Bazaar Chowk, Vinayakpur, P.S. Anda, Tahsil and District Durg Chhattisgarh.

**---- Applicants**

**Versus**

State of Chhattisgarh, Through : S.H.O.- P.S. Anda, District Durg Chhattisgarh.

**-----Respondent**

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| For Applicants       | : Mr. B.P. Singh, Advocate           |
| For Respondent/State | : Mr. Devendra Pratap Singh, Dy.A.G. |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**12/02/2021**

1. Challenge in this petition is to the order dated 04.12.2020, passed by learned Additional District and Sessions Judge/Second Fast Track Special Court (POCSO Act), Durg, District – Durg (C.G.), in Criminal Appeal No.128/2020, whereby the appeal preferred by the applicants/juvenile against the order of Magistrate, Juvenile Justice Board, Durg, District – Durg dated 09.11.2020, has been dismissed, whereby the applicants have been denied bail.

2. It is submitted that the applicants have been falsely implicated in this case. The order of rejection passed by the Board and the appellate Court both are erroneous. There had been nothing against these applicants in the social status report submitted by the Probation Officer. The incident had been occurred between family members of the applicant and the family members of the deceased, in which these applicants had not participated in any manner. They have been falsely implicated in this case. Both the applicants were entitled for grant of bail. Therefore, it is prayed that this revision petition be allowed and the applicants be granted bail.
3. State counsel opposes the petition and grounds raised in this respect. It is submitted that both these applicants have actively participated in the commission of offence of murder and attempt to murder. The learned Board and the Appellate Court both have not committed any error in passing the rejection order. Therefore, the revision petition be dismissed.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. Considered on the submissions and the facts of the case. The gravity of the offence can not be made a ground for rejection of bail to a juvenile in conflict with law under Section 12 of the Juvenile Justice (Care & Protection of Children) Act. Specific circumstances, which are required to be present for rejection of bail as provided under the proviso of Section 12 (1) of the Juvenile Justice (Care & Protection of Children) Act has to be present for making such order. In the social status report submitted by the Probation Officer for

both the applicants, there is no such circumstance present, which could have been made a ground for rejection of bail. Therefore, this Court is of the view that the orders passed by the Board as well as by the Appellate Court both are not sustainable.

6. Consequently, revision petition is allowed. The order dated 04.12.2020, passed by learned Additional District and Sessions Judge/Second Fast Track Special Court (POCSO Act), Durg, District – Durg (C.G.), in Criminal Appeal No.128/2020, is set-aside. It is directed that on furnishing a surety of Rs.25,000/- along with a bond of same amount each, which is to be of their mother to the satisfaction of the concerned Juvenile Justice Board, for their appearance as and when directed, then the applicants shall be given in custody of his natural guardian.

Certified copy as per rules.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge

Balram