

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 763 of 2020

Hemant Sahu, S/o. Sukhnandan Sahu, aged about 17 years, Through : natural guardian father Sukhnandan Sahu, S/o. Khelavan Sahu, aged about 45 Years, R/o. Village - Khorsi, Thana - Kharora, District - Raipur Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : District Magistrate, Baloda Bazar, Thana - Palari, District - Baloda Bazar - Bhatapara Chhattisgarh.

-----Respondent

For Applicant : Mr. Sameer Singh, Advocate

For Respondent/State : Mr. Gurudev I. Sharan, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/01/2021

1. Challenge in this petition is to the order dated 19.10.2020, passed by learned 1st Additional Sessions Judge, Balodabazar, District – Balodabazar – Bhatapara (C.G.), in Criminal Appeal No.20/2020, whereby the appeal preferred by the applicant/juvenile against the order of Magistrate, Juvenile Justice Board, Balodabazar, District – Balodabazar – Bhatapara dated 23.09.2020, has been dismissed, whereby the applicant has been denied bail.
2. It is submitted that the applicant has been falsely implicated in this case. There is no evidence present except the statement of the of juvenile offender on memorandum under Section 27 of the

Evidence Act, which is not admissible under law. There had been nothing against this applicant in the social status report even then the same was not appreciated by the learned Courts below and erroneous orders have been passed. Hence, the learned Board as well as the learned Appellate Court both have committed error in passing the impugned order. Interference is prayed for by this revision.

3. State counsel opposes the petition and grounds raised in this respect. It is submitted that it is a case of murder of a minor child in which this applicant and another child in conflict with law have participated. The Probation Officer has also advised that he should be detained in the observation home. Therefore, the learned appellate Courts and the Board both have not committed any error. 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 a ground for grant or rejection of bail to a juvenile in conflict with law under Section 12 of the Juvenile Justice (Care & Protection of Children) Act. On perusal of the social status report, it is found that this applicant is the first offender and there is no specific mention that there is possibility of the applicant being associated with criminal elements or that he may be exposed to any social, psychological and physical danger or that his release on bail would defeat the ends of justice, therefore, it had been a case in which the applicant should have been granted 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 19.10.2020, passed by learned 1st Additional Sessions Judge, Balodabazar, District – Balodabazar – Bhatapara (C.G.), in Criminal Appeal No.20/2020, is set-aside. It is directed that on furnishing a surety of Rs.25,000/- along with a bond of same amount, which is to be of his father 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram