

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 738 of 2020

- Debu Gupta, S/o Late Shri Rajesh Gupta, Aged About 15 Years Resident Of Ganjpara, Near Water Tank, P.S. Ganj, District Raipur, Chhattisgarh. Through Natural Guardian His Elder Mother Pushpa Gupta, Wife Of Shri Rakesh Gupta Aged About 50 Resident Of Ganjpara, Near Water Tank, P.S. Ganj, District Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Ganj, Raipur, Distt. Raipur, Chhattisgarh

---- Respondent

CRR No. 1 of 2021

- Tameshwar Kumar S/o Shri Chhotu Kumar Aged About 17 Years Through His Mother Smt. Soniya Kumar, W/o Chhotu Kumar, R/o Ganjpara Near Pani Tanki, Police Station Ganj , District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Raipur , District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Mr. B.L. Sahu, Advocate in CRR No.738/2020. Mr. Pragalbha Sharma, Advocate in CRR No.1/2021.
For State/ Respondent	:	Mr. Gurudev I. Sharan, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20/01/2021

1. These revision petitions arising out of the same crime number-192/2020 registered in police-station-Ganj, District-Raipur, therefore, they are being disposed of by this common order.
2. The CRR No.738/2020 has been filed against the order dated 11.11.2020 passed in Criminal Appeal No.241/2020 by the learned Juvenile Court/Additional Sessions Judge(F.T.C.), Raipur by dismissing the appeal and upholding the order of the Juvenile Justice Board, Mana Camp, Raipur. The CRR No.1/2021 has been filed against the order dated 11.11.2020 passed in Criminal Appeal No.240/2020 by the learned Children's Court/Additional Sessions Judge(F.T.C.), Raipur by dismissing the appeal and upholding the order of the Juvenile Justice Board.
3. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in both the cases. The detention of the applicants in the Juvenile Home is detrimental to their future prospects. Both the applicants are on bail in the previous cases registered against them. There had been no such circumstance present in accordance with proviso of Section 12 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act') for rejection of bail prayer of the applicants, therefore, the orders passed by the Board and the appellate Court are erroneous. The revision petitions be allowed.
4. Learned State Counsel opposes the petitions submitting that both the applicants have previous criminal history. There are two cases of similar nature registered against the applicant Debu Gupta and one previous case registered against the applicant Tameshwar Kumar. The

Probation Officer has also opined that there is possibility of the applicants being associated with criminal elements. No error has been committed by the Board as well as appellate court in passing the impugned orders warranting interference in exercise of revisional jurisdiction. Hence, the applicants are not entitled for grant of bail.

5. I have heard learned counsel for the parties and perused the documents placed on record.
6. Considered on the submissions. Although there are two previous cases registered against the applicant Debu Gupta and one previous case in similar nature registered against the applicant Tameshwar Kumar, but as it is mentioned, that both the applicants have been granted benefit of bail in the previous cases. The Probation Officer has expressed his opinion regarding the possibility of the applicant being associated with criminal elements, whereas the proviso of Section 12(1) of the Act mentions that there has to be reasonable grounds for believing that the release of a juvenile is likely to bring that person into association with any known criminal elements, hence, the opinion of the Probation Officer does not show any such likelihood, Therefore, I am of this view that the applicants in both the cases deserve to be granted bail and the Board as well as the appellate Court have committed error in passing the impugned orders. Hence, I feel inclined to allow both the revision petitions.
7. Consequently, the order dated 11.11.2020 passed by learned Additional Sessions Judge (FTC), Raipur, District- Raipur (C.G.) in Criminal Appeal Nos. 241/2020 & 240/2020, are set-aside. It is directed that on furnishing a surety of Rs.25,000/- along with a bond of the same amount, which is to be of guardian/mother/elder mother of

applicants in both petitions, to the satisfaction of the concerned Juvenile Justice Board, for his appearance as and when directed, the applicant shall be given in custody of his natural guardian/mother/elder mother. On condition that they shall not allow the applicants to associate with any known criminal elements.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha