

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Rev. No.1105 of 2023

Manjar Ansari @ Sahil Ansari

..... ... Petitioner

Versus

The State of Jharkhand

.... Opposite Party

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner

: Mr. Sarvendra Kumar, Advocate

For the State

: Mr. Sunil Kr. Dubey, APP

05/29.02.2024 Heard the learned counsel for the petitioner and learned Spl. PP
for the State.

2. The instant Criminal Revision has been preferred on behalf of the petitioner against the order dated 06.07.2023 passed by the learned Additional Session Judge-I- Cum Special Judge (Children Court) Lohardaga in Criminal Appeal No.41 of 2023 wherein dismissing the appeal affirmed the order dated 23.05.2023 whereby the bail application of the juvenile was rejected by the learned Juvenile Justice Board, Lohardaga in connection with Kisko P.S. Case No.06 of 2023, corresponding G.R. No. 222 of 2023.

3. The brief facts leading to this criminal revision are that the informant had given the written information with the police station concerned with these allegations that on 22.02.2023 at 11 O'clock, her minor daughter (10 years old) had gone to graze the goat to the bank of river whereat the CCL/petitioner herein, was also grazing his cow. Having found the opportunity he had raped her minor daughter. She received the information of the same from her Gotani Vina Devi on 24.02.2023 who had told that her daughter had not disclosed the said incident because she was criminally intimidated by the CCL. On this written information Kisko P.S. Case No.06 of 2023 was registered under section 376AB, 504 IPC and section 4/6 of the POCSO Act.

4. The investigating officer conducted the investigation. He also recorded the statement of the informant in which the informant has reiterated the FIR version and the statement of Vina Devi was also recorded. She also corroborated the prosecution story. The statement of victim under section 164 of Cr.PC was recorded in which she also corroborated the prosecution story and stated that she was raped by the CCL.

5. In view of the medical examination report of the victim, there is opinion that the sexual assault cannot be ruled out.

6. In the social investigation report of the juvenile, his attitude towards his family members, neighbors, friends, classmate and the school teachers as well is shown positive. As per opinion of the experts consulted, the counselor has told the juvenile to be good and disciplined boy.

7. **It is the settled law that the bail application of a juvenile should ordinarily be allowed in view of section 12 of JJ Act, 2015 except the circumstances as shown in proviso of section 12 of the J.J. Act.**

8. **Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015** reads as under:

“12. (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under subsection (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.”

9. Though the allegation made in the FIR are also corroborated with the statement of the victim under section 164 of Cr.PC and same is also corroborated with the medical evidence in which it is stated that the sexual assault cannot be ruled out; yet so far as the social investigation report of the CCL who was 14 years old on the date of said occurrence is concerned there is nothing adverse against him in the social investigation report. No criminal antecedent is shown rather his attitude towards his friends, classmates and the school teachers as well is shown positive.

10. The learned JJ Board and the learned appellate court both has rejected the bail application of the petitioner on the ground that the ends of justice will be defeated. In the social investigation report of the

petitioner/CCL there is nothing on record to show that the release of the petitioner/CCL on bail would defeat the ends of justice and would expose him to any physical, psychological or moral danger. Nothing is on record that the CCL would come in company of the known criminals, if released on bail.

11. In view of the above the impugned order passed by the learned JJ Board which was affirmed by the appellate court needs interference and this criminal revision deserves to be allowed.

12. Accordingly, this Criminal Revision is hereby allowed. The impugned order passed by the learned J.J. Board and the order passed by the learned Appellate Court are set aside.

13. Let the child in conflict with law be released on bail on furnishing bail bond of Rs. 25,000/-(Rupees Twenty Five Thousand) and two sureties of like amount each to the satisfaction of the learned Juvenile Justice Board, Lohardaga in connection with Kisko P.S. Case No.06 of 2023, corresponding G.R. No. 222 of 2023 which are to be furnished on behalf of the guardian of the child in conflict with law.

14. The guardian of the juvenile is also directed to give an undertaking that he will keep vigil eye upon the juvenile and will control him from coming in association of known criminals.

(Subhash Chand, J.)