

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Revision No. 253 of 2023

Md. Ramjani, son of Md. Mazid, represented through natural guardian mother
Bibi Nurjahan, aged about 60 years, wife of Mazid, resident of Village Kewan,
P.O. Rupni, P.S. Basantrai, District Godda **Petitioner**

Versus

The State of Jharkhand **Opp. Party**

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. Manoj Kumar Sah, Advocate

For the State : Mr. Shailesh Kumar Sinha, A.P.P.

Order No.06 /Dated: 18th January 2024

1. Heard learned counsel for the petitioner and learned counsel for the State.

2. This Criminal Revision has been preferred on behalf of the petitioner against the order dated 10.02.2023 passed by the learned District & Additional Sessions Judge-I-cum- Special Judge, Godda in Criminal Appeal No.05 of 2023, whereby the appeal was dismissed and affirmed the order dated 16.01.2023 passed by the learned Juvenile Justice Board, Godda in Inquiry No.156 of 2022 in connection with Basantrai P.S. Case No.89 of 2022 registered under Sections 366A/34 of the Indian Penal Code and under Section 6 of the POCSO Act, wherein the bail application of the juvenile was rejected.

3. The brief facts leading to this Criminal Revision are that the father of victim has lodged the FIR with these allegations that his 13 years old minor daughter had left the house on 17.09.2022 at 06:00 O'clock in the morning went to Bahiyar to attend the call of nature to. When she did not return to the house for long time, the father of victim started to search her. During search, it came to know that one boy of the same village, namely, Md. Ramjani also missing from his house. Later on, it came to know that it was Ramjani, who after persuading taken her towards Sanhaura Police Station. Thereafter on 19.09.2022, his daughter was left alone near village Bokwachak, P.S. Hanwara. On information, he brought his daughter back to the house. In this occurrence, the father of the accused was also involved. On this written information, Case Crime No.89 of 2022 was registered with the police station concerned under Section 366A/34 of the Indian Penal Code and under Section 6 of the POCSO Act.

4. The Investigating Officer conducted the investigation and during investigation, he recorded the restatement of the informant, who reiterated all the

allegations, which was made in the FIR itself.

5. The statement of victim under Sections 161 and 164 of the Code of Criminal Procedure was recorded, in which, the victim corroborated the prosecution story.

6. In view of paragraph No.21 of the case diary, the victim refused for medical examination.

7. In Social Investigation Report of the juvenile, his relation with the family members, friends and neighbours are shown cordial. No bad habit of juvenile is shown. No criminal antecedent of CCL is shown.

8. The learned APP appearing on behalf of the State opposed the contentions made by the learned counsel for the petitioner.

9. **It is settled law that the bail application of a juvenile should ordinarily be allowed, except the circumstances as laid down under the proviso of Section 12 of the J.J. Act, 2015. In view of the Social Investigation Report, none of the ground is shown against the CCL as provided under the proviso of Section 12 of the J.J. Act, 2015.**

10. **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.”

11. So far as the Social Investigation Report of the CCL is concerned, from perusal of the same, it is found that there is nothing adverse against the CCL.

12. In view of the submissions made and the materials on record, nothing is on record to show that the release of the petitioner on bail would expose him to physical, psychological or moral danger or defeat the ends of justice. The impugned order passed by the learned J.J. Board, which was affirmed by the learned Appellate Court bears infirmity whereby the bail application of the juvenile was rejected taking into consideration the seriousness of the allegation and the gravity of offence; **while disposing of the bail application of the juvenile, the gravity of offence cannot be the ground to deny the bail application of the juvenile, unless and until, there are the exceptional circumstances as provided in proviso of Section 12 of the J.J. Act, 2015. As such, the impugned order passed by the learned J.J. Board, which was affirmed by the learned appellate Court needs interference and this Criminal Revision deserves to be allowed.**

13. Accordingly, the instant 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 hereby set aside.

14. In consequence thereof, the petitioner-CCL is directed to be released on bail on furnishing bail bond of Rs.20,000/-(Rupees Twenty Thousand) with two sureties of the like amount on behalf of his guardian (mother of the juvenile) to the satisfaction of the court concerned. The guardian (mother of juvenile) of the CCL would also give undertaking that he would keep her vigil eyes upon him and will restrain him from coming in association of the known criminals.

(Subhash Chand, J.)