



2025:CGHC:10422

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 676 of 2024

1 - Abc Nill

2 - Xyz (Details Is Kept In Envelop)

--- Applicant (s)

versus1 - State Of Chhattisgarh Through District Magistrate Janjgir, District :
Janjgir-Champa, Chhattisgarh

--- Respondent(s)

For Petitioner(s)	:	Shri Sunil Sahu, Advocate
For Respondent/State	:	Ms. Pragya Shrivastava, Dy.GA

(Hon'ble Shri Justice Arvind Kumar Verma)**Order on Board****03/03/2025**

This Criminal Revision has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "J.J. Act") against the order impugned dated 06.06.2024 passed by the learned First Additional Sessions Judge, Janjgir-Champa in Criminal Appeal No. 54/2024 arising out of Crime No.17/2024 for commission of offences under Sections 363,302,201, 120-B, 147,148 and 149 of IPC whereby appeal has been dismissed

and the order dated 24.04.2024, passed by the Principal Magistrate Juvenile Justice Board, Janjgir in Cr. Case No. 62/2024 rejecting the bail application of child in conflict with law has been affirmed.

2. As per prosecution case, on 09.01.2024, at about 12.30 p.m. complainant Mukund Yadav lodged a missing report alleging that his son namely Rajesh Yadav, student of class 11 went with one Deepak Tandon in his motorcycle to watch the cultural program at Godna and did not return. He was having suspicion that his son might have been abducted and therefore the report was lodged against unknown persons under Section 363 IPC. Thereafter on 12.01.2024, at about 10.00 pm. dead body of the his son was found near Barbhata canal. During merg inquiry, the police collected the evidence against the present applicants/juvenile in conflict with law that the applicants were classmates of the deceased and the applicant No.1 and the deceased over liking their schoolmate (girl). Memorandum statements of the juvenile in conflict with law were recorded and the clothes and weapon of offence were seized. The juveniles were found to be 17 years and 11 months and 16 years of age, respectively.

3. An application for bail to the juveniles under Section 12 of the Act was filed before the Juvenile Justice Board but same was declined. Thereafter, an appeal preferred on behalf of the juvenile was also dismissed. Learned Sessions Judge has taken into account the facts that their release is likely to bring them into association with known criminal, expose them to moral, physical or psychological danger and would defeat the ends of justice.

4. Learned counsel for the applicants/juvenile in conflict with law has submitted that at the time of commission of offence, juveniles were

below 18 years of age and they have no criminal antecedents. They have been falsely implicated without any material evidence. It is further submitted that there is no evidence on record that if the juveniles are released on bail, their release is likely to bring them into association with any known criminal, expose them to moral, physical or psychological danger and would defeat the ends of justice. No such findings has been recorded as to how they will come into association with any known criminal, or how it will expose them to moral, physical or psychological danger and would defeat the ends of justice. The father of applicant No.1 is ready to give an undertaking that if juvenile is released on bail he will keep him in his custody and will look after him properly by providing better education. So far as applicant No.2 is concerned, his father has died, he is a regular student of class 11 and the brother of the applicant is ready to take the custody and the further submitted that Juvenile Justice Board as well as appellate Court have not properly appreciated the facts of the case and have passed the impugned order in a cursory manner without considering the object of the law enacted for the benefit of juvenile and have refused to release them on bail.

5. Learned counsel for the State has supported the impugned judgment and order passed by the Juvenile Justice Board and appellate Court and has contended that that the juveniles had committed a heinous offence in a pre-planned manner as after committing double murder ie. of Rajesh and Deepak with iron pipe and rod, they threw the dead bodies in the pit and covered with straw, the motorcycle was thrown in the pond near Mudhpar Road whereas the weapon of offence iron rod and pipe were hidden in the room on the basis of

disclosure of the fact by the juveniles in conflict with law. They had committed the murder only because of the dispute with regard to liking of their schoolmate (girl) who was their classmate which shows their depravity of mind. Therefore, considering the gravity of offence and Social Investigation Report filed by the Probationary Officer the criminal revision filed on behalf of the juveniles be dismissed.

6. I have heard the rival submissions put forth by learned counsel for the parties.

7. It is undisputed that at the time of commission of offence, juveniles in conflict with law were 17 years and 11 months and 16 years of age respectively. Learned Juvenile Justice Board and learned Sessions have taken into consideration the ghastly and abominable crime committed by the juvenile. They have also taken note of the report of the Probationary Officer.

8. It is true that gravity of the offence alone cannot be a ground to reject the bail application but where the helpless children of 16 years age are murdered only because of liking a schoolmate (girl), the depravity of mind of the juveniles are very much manifest. Before considering the legality, propriety, correctness and validity of the order passed by the Courts below it would be useful to look at the relevant provision of the Act. Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 reads as under:-

"12. Bail to a person who is apparently a child alleged to be in conflict with law.-

(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 (2 of 1974) 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 sub-section (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 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 fulfill 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. Provisions of Section 12 of "J.J. Act, 2015" manifest that ordinarily, the Juvenile Justice Board is under obligation to release the juvenile on bail with or without surety. The juvenile shall not be released in certain circumstances as the latter part of the section also uses the word 'shall' imposing certain mandatory conditions prohibiting the release of the juvenile by the J.J. Board. If there are any reasonable grounds for believing;(a) that the release is likely to bring him into

association with any known criminal; (b) that release is likely to expose him to moral, physical, or psychological danger and (c) that release of the juvenile in conflict with law would defeat the ends of justice.

10. From a bare reading of the provisions of Section 12 of "J.J. Act, 2015", it appears that the intention of the legislature is to grant bail to the juvenile irrespective of the nature or gravity of the offence alleged to have been committed by the juvenile, and bail can be declined only in such cases where there are reasonable grounds to believe that the release is likely to bring the juvenile into an association of any known criminal or expose him to moral, physical, or psychological danger, or that his release would defeat the ends of justice. The gravity of the offence is not a relevant consideration for declining the bail to the juvenile. A juvenile can be denied the concession of bail if any of the three contingencies specified under Section 12(1) of "J.J. Act, 2015" is available.

11. On a bare perusal of the provisions, it is apparent that bail to juvenile is not "must" in all cases as it can be denied by assigning proper reasons. The law does not say that once a person is found juvenile, he should be released on bail notwithstanding the other facts and circumstances of the matter. It is also explicit that the bail can also be denied if the juvenile's release, in the opinion of the court, would defeat the ends of justice. The phrase "ends of justice" is undoubtedly a meaningful phrase bringing within its sweep many factors including the nature of the crime and the merits of the matter. Normally, in a case of juvenile, the gravity of the offence or nature of accusation are not so material. However, there may be some other facts and circumstances which cannot simply be brushed aside by the court.

12. As far as nature of the offence is concerned, the Act itself differentiates between offences falling into three categories, i.e petty, serious and heinous offences. Time and again, the Supreme Court has cautioned the courts through various judgments to be more sensitive while dealing the matter of heinous offences. However, the general principles as enumerated in Section 3 of the Juvenile Justice Act, 2015 have to be kept in mind as a guiding factor. On one hand, all decisions regarding the child should be based on primary consideration of best interest of the child, on the other hand, the demands of justice of the other side cannot be simply shrugged off. In fact, Society has always been sensitive towards offences against the innocent children. Therefore, while considering the prayer for bail in cases related to murder, the Court has to see whether release would not expose juvenile to the danger of retribution by the Society. In cases of murder, such a possibility always exists. Where victim is a child, the court would do well in its limit to refuse to exercise discretion vested under Section 12 of the Act and bail can also be refused on the ground that release would defeat the ends of justice.

13. The Hon'ble Apex Court in the case of **Om Prakash Vs. State of Rajasthan and another [(2012) 5 SCC 201]**, has cautioned the courts to be more sensitive in dealing with juvenile in cases of serious nature like sexual molestation, rape, gang-rape murder etc. Relevant extract of the judgment made in Paras- 23 and 38 are being reproduced below for reference:-

"23. Hence, while the courts must be sensitive in dealing with the juvenile who is involved in cases of serious nature like sexual molestation, rape, gang rape, murder and host of other offences, the accused cannot be allowed to abuse the statutory

protection by attempting to prove himself as a minor"

In para-38 of the judgment, Hon'ble Court observed that this would clearly be treated as an effort to weaken the justice dispensation system. Para-38 of the judgment is being reproduced below:-

"38. The Juvenile Justice Act which is certainly meant to treat a child accused with care and sensitivity offering him a chance to reform and settle into the mainstream of society, the same cannot be allowed to be used as a ploy to dupe the course of justice while conducting trial and treatment of heinous offences. This would clearly be treated as an effort to weaken the justice dispensation system and hence cannot be encouraged."

In para-33 of the judgment, Court observed that 'statutory protection of the Juvenile Justice Act is meant for minors who are innocent law-breakers and not accused of matured mind who use the plea of minority as a ploy or shield to protect himself from the sentence of the offence committed by him, otherwise would amount to subverting the course of justice'.

14. The present is a case of double murder being committed by the applicants/juveniles in conflict with law over some dispute of their schoolmate (girl) which shows the depravity of the mind of the persons committing such offence. The commission of murder of two persons and thereafter trying to destroy the evidence by throwing the vehicle in the pond and hiding the bodies in a pit by covering with straw, cannot be treated to be an act, which can be dubbed as a child's mistake committed during youth or adolescence. It is an act motivated with passion over petty issue of liking and disliking of their schoolmate (girl). Where a 16 years old boys were abducted and assaulted with iron rod and pipe on their head, shows the cruel mentality of the juvenile in conflict with law. While considering bail to a juvenile in conflict with law,

gravity of offence cannot be considered but at the same time it cannot be overlooked that discretion of bail to such persons will obviously tantamount subverting the course of justice.

15. The double murder of two boys aged 16 years reflects the criminal mind set of the offender. Granting bail to such juveniles will not only expose them to moral, physical or psychological danger but will also lead to defend the ends of justice. The object of Juvenile Justice Act is not only reformatory but is retributive also to some extent. While dealing with grant or refusal of bail the ends of justice compel the Court to strike a balance between conflicting demands of justice of both the sides i.e. the accused and the victim. The aim and object of the Juvenile Justice Act, 2015 is to achieve not only the welfare and betterment of juvenile by extending to him services of reformatory nature, so that he can be brought back to main stream of society as a person of healthy mind, but also to address the concern of society at large.

16. After all the victims also needs justice. The Juvenile Justice Act has been enacted for the need and care of juveniles. Therefore, a striking balances is necessary while considering the matter of bail of a juvenile from the angle of best interest of the child, demands of justice to the victims and the concern of the society at large. Offences of murder, rape/aggravated penetrative sexual assault are crime against society and society feeling desperate and outrage too needs a justice. Thus, justice has to be ensured to both authors vis-a-vis victim and society. Section 12 of the Act while empowers Court to grant bail to juvenile but the act also puts a rider which is caused in negative.

17. In the present case, two minor boys aged 16 years were

murdered. The juveniles in conflict with law themselves had given their statement and the dead bodies of the deceased children were recovered on the basis of disclosure of the facts by the juveniles in conflict with law. Therefore, I am of the view that aim of the Juvenile Justice Act is to take care of both child in conflict with law as well as the society. As such, Section 12 of the Act cannot be interpreted in a manner so as to give advantage to only juvenile in conflict with law ignoring the concern of the society. The provisions of bail for juvenile cannot be interpreted to work only for the benefit of the juvenile ignoring the cries of the family of the deceased children. Whenever a child becomes victim of offences, let alone heinous offence like rape/aggravated penetrative sexual assault, murder, society craves and cries for justice. By showing misplaced sympathy to the juveniles, who committed double murder, the society is denied justice which is not and cannot be intention of law.

18. In view of above, juveniles in conflict with law are not entitled to bail for commission of aforesaid offence. Consequently, I am of the view that learned Sessions Judge has not committed any error in rejecting the appeal and in affirming the order passed by Juvenile Justice Board. There is no error in the impugned order. Consequently, this criminal revision is accordingly dismissed.

Sd/-
(Arvind Kumar Verma)
Judge