

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Revision No. 08 of 2024

Shailesh Kumar SahuPetitioner

Versus

The State of JharkhandOpp. Party

CORAM : HON'BLE MR. JUSTICE SUBHASH CHAND

For the Petitioner : Mr. Ashim Kumar Sahani, Advocate

For the State : Mrs. Anuradha Sahay, A.P.P.

Order No. 04/ dated 02.05.2024

Learned Counsel Mr. Ashim Kumar Sahani on behalf of petitioner and on behalf of the State, learned A.P.P. are present.

2. This Cr. Revision is preferred on behalf of the petitioner against the Judgment/Order dated 16.12.2023 passed by the learned Addl. Sessions Judge-I-cum-Special Judge, Children Court, Lohardaga in Criminal Appeal No. 107 of 2023 whereby and whereunder the learned Addl. Sessions Judge-I-cum-Special Judge, Children Court, Lohardaga has rejected the regular bail of the petitioner and affirmed the order dated 21.11.2023 passed by the learned Presiding Officer, Juvenile Justice Board, Lohardaga in Lohardaga P.S. Case No. 180 of 2023, corresponding to G.R.No. 453 of 2023 for the offence registered under Sections 25(1-B) a/26 of the Arms Act wherein the prayer of the petitioner was rejected.

3. The learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated in this case and the arms which is alleged to have been recovered, the same was never sent for ballistic report and in social investigation report

of the petitioner nothing is adverse against him. The learned J.J.Board has rejected the Bail Application of the petitioner which was affirmed by the Appellate Court without taking into consideration the Social Investigation Report of the petitioner.

4. The learned A.P.P. opposed the contentions made by the learned Counsel for the petitioner.

5. The brief facts leading to this Cr. Revision are that on 30.06.2023 the informant had received the secret information that one person was loitering near Barwatoli Chowk armed with a country made pistol on motorcycle. Accordingly, he reached to the indicated place with the police force. On being chased, that person fled away leaving his Hero Honda motorcycle near the Mission Chowk. Thereafter the police visited the house of that person and apprehended him at 20 hours 15 minutes. In personal search of him one country made pistol was recovered. He also confessed that one more country made pistol was also recovered from his house. Accordingly, the case crime No. 180 of 2023 was registered under Section 25(1-B) a/26 of the Arms Act.

6. As per allegations made in the F.I.R., the present petitioner-CCL was apprehended from his house and two country made pistols were alleged to have been recovered. One was recovered from the physical possession of the petitioner and another from his house. There is no independent witness of the seizure memo. There is nothing in the whole case diary that the

recovered country made pistols were ever sent for ballistic examination to establish the working condition of both the pistols.

7. It is the settled law that while disposing the Bail Application of a juvenile, the grounds under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 are to be taken into consideration. On in exceptional circumstances given in proviso of Section 12 the bail of a juvenile can be rejected. **Section 12 of the J.J. Act** reads as under:

Section 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 ¹[or a place of safety, as the case may be,] in such manner as may be prescribed until the person can be brought before the 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.

8. In Social Investigation Report of the petitioner-C.C.L. his attitude towards his family members, friends and neighbour is shown cordial. No bad habit is shown. No criminal antecedent is shown. In view of the above, there is no possibility of the petitioner to come in association of known criminal or expose him to physical, psychological and moral danger. The impugned order passed by the learned J.J.Board which was affirmed by the learned Appellate Court needs interference. Accordingly, this Cr. Revision deserves to be allowed.

9. This Cr. Revision is allowed. The impugned order passed by the learned J.J.Board and the Appellate Court are hereby quashed and set aside.

10. Let the child in conflict in law be released on bail on furnishing bail bond of Rs. 15,000/- (**Rupees Fifteen Thousand**) and two sureties of like amount each to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Lohardaga in connection with Lohardaga P.S. Case No. 180 of 2023, corresponding to G.R.No. 453 of 2023 which are to be furnished on behalf of the guardian of the child in conflict in law.

11. 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.)

P.K.S.