

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRR No.3144 of 2015

Date of Decision: September 04, 2015

Ranjeet Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Ashok Tyagi, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

The short point involved in this revision is the very legality and propriety of orders dated 23.4.2015 passed by learned Additional Sessions Judge, Faridabad dismissing the application moved by undertrial Ranjeet Kumar to declare him a juvenile.

It is the admitted stand that a case by way of FIR No.602 dated 30.09.2014 under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act') was filed against the petitioner by Police Station Central Faridabad in which the accused-petitioner has claimed that he was a juvenile which prayer was declined.

In the light of the contentions of the learned counsel for the petitioner and learned State counsel Mr. Munish Sharma AAG, Haryana the petitioner claims that his date of birth is 28.11.1997 and which fact has sought to be proved by

examining AW1 Gobind Lal Sahu, Principal, Government Shri Shankar High School, Mehna Baruni, Begu Sarai, Bihar on the basis of school records when the revisionist was admitted in this school on 29.4.2001 in 9th class on the basis of transfer certificate issued by Middle School Naya Tola Rachiyahi, Matihani, District Begu Sarai, Bihar Ex.A1 and admission register Ex.A2 and the registration card issued by the authorities Ex.A3 which fact is sought to be supported by the mother of the applicant Geeta Devi as AW2. The only semblance of evidence led by the State is an application dated 6.4.20015 Ex.D1 sent by the police to Principal Shri Shankar Senior Secondary School, Mahna, Baroni, Begu Sarai and the report of the Principal Ex.D2 coupled with school certificate issued by way of Ex.D3 and application Ex.D4 with record Ex.D5 and application of the police Ex.D6 which by no means controverts the evidence of the applicant. From the oral testimony of the mother, who is the best witness to testify and which is corroborated by the records of the school Ex.A1 to Ex.A3, it is duly established on the records during the inquiry as to the juvenility the date of birth of the petitioner was 28.11.1997 and, thus, in the light of the contention of the revisionist's counsel the occurrence having taken place on 30.9.2014 and, therefore, by that the age of the applicant on the date of occurrence was 16 years and 10 months and, therefore, below 18 years of age. Ex.D1 on the other hand, carrying report Ex.D2 corroborates this fact as to the date of birth and even the certificate Ex.D3 the own document of the State and so is the fate of another police proceedings Ex.D4, Ex.D5 and Ex.D6. The contention of the learned State counsel that there is no birth certificate does not

carries much weight and that Municipal records though were the most desirable mode of proving date of birth but that does not means or can be construed that in the absence of the same the other records cannot be taken account of and the Court has even declined the plea for medical examination to assess the age of the accused-revisionist and the Court below has relied more on self assumption and presumption rather on the basis of the evidence led during the inquiry as to the juvenility. Apparently, though invariably even the Court has accepted the documents Ex.A1 to Ex.A3 to be correct but merely on the grounds that he has failed to produce any proof of date of birth has declined the prayer. Thus, the Court has lost sight of the fact that it was supposed to do justice on the basis of evidence led before it rather than taking an unsubstantiated stand based on its own view of life which runs contrary to the dispensation of justice. The impugned order certainly suffers from an illegality and perversity and needs to be set aside by way of acceptance of instant petition.

(FATEH DEEP SINGH)
JUDGE

September 04, 2015

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