

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

CRR No. 3629 of 2014

Date of decision: July 23, 2015

Vikram @ Kirli

.... Petitioner..

Versus

State of Haryana

.... Respondent..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Arpandeep Narula, Advocate,
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Jaspal Singh, J.

Challenge in this revision petition is to order dated October 10, 2014 passed by Id. Additional Sessions Judge, Sirsa in Criminal Appeal No. 985 of 2014, thereby dismissing the first appeal-cum-regular bail of petitioner and impugned order dated July 03, 2014 passed by Id. Principal Magistrate, Juvenile Justice Board, Sirsa, dismissing regular bail, under Section 437 Cr.P.C., in case FIR No. 462, dated 15.05.2014, under Sections 302 and 34 IPC and under Section 25 of the Arms Act, 1959, at Police Station City Sirsa, District Sirsa.

2. It is an undisputed fact that petitioner is a juvenile and a report to this effect has also been received. It is also an admitted fact that application preferred by petitioner before Id. Principal Magistrate, Juvenile Justice, Board, Sirsa has been dismissed on the observation that if petitioner is released on bail, there is every likelihood of him to

come in association with other criminals as well as to expose moral, physical or psychological danger. An appeal preferred by petitioner has also been dismissed by Id. Additional Sessions Judge, Sirsa vide order dated October 10, 2014.

3. A glance at the said order reveals that Court has noticed that a specific role has been attributed to petitioner, therefore, order passed by Id. Principal Magistrate, Juvenile Justice, Board, Sirsa neither illegal nor perverse.

4. Learned counsel appearing on behalf of petitioner while referring to Section 12 of the Juvenile Justice (Care and Protection of Children Act, 2000 (for short, 'the Act') and relying upon judgments of Hon'ble the Supreme Court in **“Gopinath Ghosh v. The State of West Bengal”, 1984 (1) RCR (Criminal) 444** and this Court in **“Atul Kumar and another v. State of Haryana”, 2003 (4) RCR (Criminal) 404** and **“Ramesh @ Meshu v. State of Haryana”, 2005 (1) RCR (Criminal) 65** has submitted that bail to juvenile is a rule and rejection can only be in case there are reasonable grounds to believe that release of juvenile is likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger.

5. As per the submission made by learned counsel for petitioner none of the ingredients is established or available on file which could enable the Courts below to form an opinion that there exist such circumstances which are sufficient to decline the request for bail of the juvenile. In **Gopinath Ghosh's case (supra)**, while considering the prayer for bail moved by juvenile, who was an accused of offence

alleged to have been committed under Section 302 IPC, following observation was made:-

“It clearly transpires from a combined reading of the sections hereinbefore extracted that where a Juvenile delinquent is arrested, he/she has to be produced before a Juvenile court and if no Juvenile Court is established for the area, amongst others, the Court of Session will have powers of a Juvenile court. Such a Juvenile delinquent ordinarily has to be released on bail irrespective of the nature of the offence alleged to have been committed unless it is shown that there appears reasonable grounds for believing that the release is likely to bring him under the influence of any criminal or expose him to moral danger or defeat the ends of justice.”

To the similar fact are the observations made in case **Atul Kumar's case (supra)** and **Ramesh @ Meshu's case (supra)**.

6. Adverting to the facts of instant case, Id. Principal Magistrate, Juvenile Justice Board, Sirsa formed an opinion that in case, petitioner is released on bail, he is likely to come in contact with known criminals and the said opinion has also been accepted to be true by Id. Additional Sessions Judge, Sirsa, while dismissing the appeal, vide impugned judgment dated October 10, 2014.

7. However, perusal of impugned orders depict that no material was available on file, produced by the prosecution to substantiate such a claim to bring the case of petitioner within the exceptions carved out for rejection of the bail application of a juvenile, who otherwise is to be released on bail as a matter of right. There is also nothing on record to suggest that parents of petitioner were also involved

in such like cases.

8. Thus, this Court is of the considered view that there is nothing to support the opinion formed by Id. Principal Magistrate, Juvenile Justice Board, Sirsa and accepted by Id. Additional Sessions Judge, Sirsa while dismissing an appeal preferred by petitioner.

9. In the light of what has been discussed above, revision petition is allowed whereby impugned order dated October 10, 2014 passed by Id. Additional Sessions Judge, Sirsa, dismissing the appeal as well as order dated July 03, 2014 passed by Id. Principal Magistrate, Juvenile Justice Board, Sirsa are set aside by way of acceptance of instant revision. Resultantly, petitioner is ordered to be released on bail to the satisfaction of Principal Magistrate, Juvenile Justice Board, Sirsa/ Chief Judicial Magistrate on furnishing bail bonds, during the pendency of trial.

July 23, 2015
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(JASPAL SINGH)
JUDGE