

Criminal Revision No.3945 of 2014

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

Criminal Revision No.3945 of 2014 (O&M)
Date of decision: 04.05.2015

Sudhir Singh @ Sudhir Kumar

....Petitioner

Versus

The State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Sandeep S. Majithia, Advocate, for the petitioner.
Mr. S.S. Chandumajra, DAG, Punjab.

PARAMJEET SINGH, J. (ORAL)

Instant criminal revision petition has been filed for setting the order dated 23.09.2014 passed by learned Principal Magistrate, Juvenile Justice Board, whereby bail application of the petitioner has been dismissed as well as against the order dated 30.10.2014 passed by learned Additional Sessions Judge, Ludhiana, whereby appeal filed by the petitioner has been dismissed.

It is not necessary to set out the facts in detail. Suffice it to say that petitioner was prosecuted in a case arising from FIR No.32 dated 23.03.2014 registered under Sections 302/376/201 IPC read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 for rape and murder of minor girl (name withheld) of four years of age. Petitioner was declared juvenile vide order dated 05.09.2014. During the pendency of trial, petitioner moved an application for bail before the

Criminal Revision No.3945 of 2014

Juvenile Justice Board, which was dismissed vide order dated 23.09.2014. Aggrieved against the order dated 23.09.2014, petitioner preferred an appeal before the learned Additional Sessions Judge, Ludhiana, which has been dismissed vide order dated 30.10.2014. Hence, this revision petition.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contended that in view of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act'), petitioner is entitled to bail as a matter of right. Learned counsel further contends that there is no reliable evidence available against the petitioner. Learned counsel for the petitioner placed reliance on the judgments of Hon'ble Supreme Court in ***Gopinath Ghosh v. State of West Bengal, 1984(1) R.C.R. (Criminal) 444*** and ***Jitendra Singh @ Babboo Singh and others v. State of U.P., 2013(3) R.C.R. (Criminal) 819***.

On the other hand, learned counsel for the State vehemently contended that petitioner has committed a heinous crime. He is 16 years of age and knows what he is doing. He understands the nature of all the acts which he has performed.

I have considered the contentions raised by learned counsel for the parties.

The judgments relied upon by the learned counsel for the petitioner are not applicable to the facts of the case in hand as they are against the final verdict.

Section 12 (1) of the Act reads as under: -

“12. Bail of juvenile.- (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is 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 but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.”

Perusal of Section 12(1) of the Act reveals that a juvenile cannot be released on bail if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. Juvenile Justice Board, relying upon the judgment of this Court in ***Satbir v. State of Haryana, 2011(2) R.C.R. (Criminal) 621***, has already recorded a categorical finding that gravity of offence is not the only ground for denial of bail to the juvenile but if for reasonable ground it is believed that such release would bring the juvenile in association with any known criminals or would expose him to moral, physical or psychological danger or would defeat the ends of justice, the bail can be denied. This Court in ***Shimli Kumar v. State of Haryana, 2013(4) R.C.R. (Criminal) 16*** has also taken similar view.

In the present case, admittedly the petitioner is 16 years of age and has committed the offence, as aforesaid, against a female child of

Criminal Revision No.3945 of 2014

four years of age, which certainly shocks the conscience of the Court.

In view of the fact that petitioner understands what he is doing, he is not entitled to concession of bail.

No ground for interference in the orders passed by Courts below, is made out.

Dismissed. However, the Juvenile Justice Board shall pass appropriate order in the main case in accordance with law as early as possible.

(Paramjeet Singh)
Judge

May 04, 2015
R.S.