

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR no. 426 of 2015 (O&M)
Decided on :28-04-2015

Rajiv Kumar

....Petitioner(s)

VERSUS

State of Punjab

....Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr.Hardeep Singh, Advocate for the petitioner
Mr.P.J.S.Hundal, AAG, Punjab

MAHESH GROVER, J

The petitioner prays for his release on bail on the ground that he is a Juvenile. By virtue of the impugned order dated 2.12.2014 the learned Court below concluded that the petitioner is a Juvenile but declined the bail on the ground that the offence in which he is involved is under Section 302 IPC. His appeal against the said order was also dismissed vide order dated 19.12.2014.

On due consideration of the matter, I am of the view that the Court has ignored parameters prescribed in Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 which is extracted herebelow:-

12. Bail to 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 (or placed under the supervision of a Probation

Officer or under the care of any fit institution or fit person) 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.

(2)When such person having been arrested is not released on bail under sub-section (1)by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3)When such person is not released on bail under sub-section (1) by the Board, it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.”

Once the Court concludes that person is a Juvenile, his bail can be declined only on the grounds noticed above and not simply on the ground that the offence is heinous.

For the aforesaid reasons, impugned orders dated 2.12.2014 and 19.12.2014 are set aside and the matter is remanded back to Principal Magistrate, Juvenile Justice Board, Patiala for decision afresh.

Let needful be done as expeditiously as possible but not later than two weeks from the date of receipt of the certified copy of this order.

Disposed of.

April 28, 2015
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(Mahesh Grover)
Judge