

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

CRR No.1998 of 2016 (O&M)

Date of decision: 21.07.2016

Rahul

...Petitioner

Vs

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present:- Mr. Anuj Balian, Advocate
for the applicant-petitioner.

Mr. Deep Singh, AAG, Punjab.

ANITA CHAUDHRY, J.(Oral)

This is a revision directed against the order dated 29.02.2016 passed by the Principal Magistrate, Juvenile Justice Board, Amritsar and order dated 05.05.2016 passed by Additional Sessions Judge, Amritsar (wrongly mentioned as 05.05.2015 in the ground of revision) whereby the application filed by the juvenile seeking bail was dismissed.

The facts leading to the FIR are necessary. The complainant a minor had gone to buy ice candy from a hawker near Islamabad Chowk. The nephew of the complainant Manu bought his candy and returned home. The complainant was at a short distance from her house when a car came from behind. There were four young boys and a lady in the car. Rahul and the other persons came out of the car and put a handkerchief on the complainant's face. She fell unconscious and was bundled in the car and taken away. She protested and made to wear bridal clothes and bangles.

She resisted, they raped her and she was thrown in an unconscious state. She found herself near a Gurdwara Pipli Sahib. A woman coming from the Gurdwara helped her and dropped her home.

The petitioner moved an application for bail before the Juvenile Justice Board. The application was dismissed. Aggrieved by the order, the petitioner filed an appeal before the Sessions Court and the same was also dismissed.

Learned counsel for the petitioner urges that grant of bail under Section 12 of the Juvenile Justice Act is mandatory unless the conditions requiring the Court not to grant bail specified in the section itself are satisfied. He pointed out that a simple statement had been made by the Principal Magistrate but there was nothing to substantiate to support the finding and cites **“Rajvir Vs. State of Haryana”, 2014 (10) R.C.R. (Criminal) 2438.**

Learned State counsel submits that the charge had been framed in May, 2016 and the release of the juvenile would defeat the ends of justice and there are two more associates and it was a case of gang rape.

The petitioner was asked to place on record the application that was filed before the trial Court. I find that the application had been moved by the accused through the counsel not by the father. There is no social investigation report in favour of the juvenile. The same was not filed by the petitioner. Without any favourable report in favour of the petitioner it is difficult to come to the conclusion in his favour. No doubt bail has to be granted to a juvenile notwithstanding anything contained in

the Code of Criminal Procedure. It is true that the gravity of the offence cannot be the deciding factor but while administering justice, the Court must be conscious of the offence to impart justice not only to the accused but also to the victim.

In case of gang rape release of the accused would certainly defeat the ends of justice. The petitioner is accused of abducting the prosecutrix along with other the co-accused which unerringly indicate the criminal proclivities of the petitioner. In such a view, if the petitioners release on bail not only will be a miscarriage of justice but will push the petitioner into further moral, psychological degradation and would defeat the ends of justice. There is no merit in the revision and is dismissed.

(ANITA CHAUDHRY)
JUDGE

July 21, 2016
vanita