

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Criminal Revision No. 2284 of 2016

Date of decision : July 8, 2016

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Rachhpal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

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CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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Present: Mr. G.S Sandhu, Advocate for the petitioner.

Mr. Satinder Singh Riar, AAG, Punjab.

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1. *Whether Reporters of Local Newspapers 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?*

RITU BAHRI, J

The petitioner has come up in the present revision petition against the order dated 26.5.2016 passed by the Additional Sessions Judge/Exclusive Court, Amritsar whereby an appeal against the order dated 22.4.2016 passed by the Learned Magistrate, Juvenile Justice Board, Amritsar dismissing the bail application of the petitioner was dismissed.

FIR No.127 dated 8.9.2015 was registered under Sections 376/506/363/366 of IPC and Section 4/6 of Protection of Children from Sexual Assault at Police Station Ajnala, Amritsar on a statement made by

the prosecutrix to the effect that on 2.9.2015 at about 1:00 /2:00 a.m, she was sleeping in the courtyard of her house. In the meantime, Rachhpal Singh who had been harassing her for the last many days came there and kept his one hand on her mouth and another hand on her neck. He threatened to kill her in case she raised noise and took her to the fields at about 50 yards away from the house. There he committed rape upon her. On hearing her cries, her uncle Gajjan Singh came there but Rachhpal Singh ran away from the spot leaving his Parna and mobile phone there.

The bail application filed by the petitioner, Rachhpal Singh under Section 12 of Juvenile Justice Act read with Section 437 Cr.P.C was dismissed by the Principal Magistrate Juvenile Justice Board, Amritsar on the ground that there is every possibility that if juvenile is released on bail, he would again come into association of other known criminals which would expose him to mental danger and it would defeat the ends of justice. Criminal appeal against this order was also dismissed by the Additional Sessions Judge/Exclusive Court, Amritsar vide order dated 26.5.2016 considering the serious allegations against the juvenile and by making reference to Section 18 of the Juvenile Justice Act.

Counsel for the respondent has not been able to dispute that the families of the accused and that of the complainant were involved in civil and criminal litigation in the past. This fact is further elaborated from the judgment dated 3.8.2012 passed by the Additional Civil Judge (Senior Division), Ajnala (Annexures P-4) judgment dated 25.9.2013 passed by the Civil Judge (Junior Division), Ajnala (Annexure P-5) and judgment dated 11.5.2012 passed by this Court (Annexure P-6).

the exception of Section 18 of the Juvenile Justice Act cannot be applied to deny the bail the petitioner. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 provides for bail to Juvenile. A relevant extract from Section 12 of the Act reads as follows:-

“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 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 releasee 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.”

According to the aforesaid Section, accused shall not be 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. No such circumstances exist in the present case for denying the bail to the petitioner. The bail has simply been denied by making a reference to Section 18 of the Act.

Herald 2418 wherein bail to Juvenile was declined in view of statement of the father of prosecutrix and certain witnesses that juvenile extended threats to them, it was held by a Co-ordinate Bench of this Court that the orders passed by the Courts below do not record any such finding that in case the juvenile is released on bail, it is likely to bring him in association with known criminal or expose him to moral physical and psychological danger. Impugned order was set aside and bail allowed.

In *Vikas Yadav vs. State of Haryana 2009 (4) RCR (Criminal) 440* and *Satbir Vs. State of Haryana 2011 (2) RCR (Criminal) 621*, it was held that bail to juvenile under Section 12 is a right and rejection thereof is an exception. Exception can be exercised if there appears a reasonable ground that release would bring him in association with any known criminals or expose him to moral, physical or psychological danger or defeat the ends of justice.

In the facts and circumstances of the present case and by placing reliance on the above mentioned judgments, present revision petition is being allowed and the petitioner is directed to be released on bail.

July 08, 2016
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(RITU BAHRI)
JUDGE