

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 3471 of 2016 (O&M)

Date of decision: 18.11.2016.

Avtar Singh @ Suraj

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. V.K. Kaushal, Advocate for the petitioner.

Mr. A.P.S. Gill, AAG, Punjab.

RITU BAHRI, J.(ORAL)

Crl. Misc. No. 29881 of 2016

For the reasons mentioned in the application, delay of 234 days in filing the present revision petition is condoned.

The application stands disposed of accordingly.

CRR No. M 3471 of 2016

The present petition is against order dated 11.07.2016 passed by learned Addl. Sessions Judge, Amritsar whereby the first appeal cum regular bail of the petitioner was dismissed and order dated 21.09.2015 passed by Court of learned Principal Magistrate, Juvenile Justice Board, Amritsar whereby regular bail of the petitioner was dismissed in F.I.R No. 57 dated 14.06.2015 registered under Sections 363/366/366-A/376/120-B IPC and 6 of POCSO Act, registered at P.S Maqboolpura, Amritsar City, Amritsar.

A perusal of the order shows that the petitioner was 16 years, 6 months and 10 days at the time of alleged occurrence but the benefit under Section 12 of the Juvenile Justice (Care & Protection of Child) Act 2000) was not granted

to him and the bail has been declined.

Keeping in view the gravity of the offence, appeal against the said order has already dismissed by Sessions Judge on 11.07.2016 (Annexure P-1) on the ground that release of the petitioner is likely to bring him into the association with any known criminal or expose him to moral danger and his release would defeat ends of justice, by referring to judgment '**1997(2) AICLR 845 Sanjay vs. State (U.T. Chandigarh)** and '**Ajit v. State of Haryana 2013(4) RCR CrI. 476**

The facts of the present case is that both the petitioner and prosecutrix were below the age of 18 years and the allegations against the petitioner that he had enticed her.

Learned counsel for the petitioners further submits that petitioner should be extended the benefit of Section 12 of the Act.

In support of his aforesaid contention, learned counsel for the petitioners relies upon Division Bench Judgment of Hon'ble Apex Court in ***Aitha Chander Rao Vs. Sate of Andra Pradesh, 1981 SCC 17***, as well as order of this Court passed in ***Criminal Revision No. 1987 of 2006*** titled as "***Gurlabh Singh Vs. State of Punjab***" decided on 05.12.2013.

The case of Juvenile falls in the exceptions enumerated in the matter of grant of bail. Section 12 of the Act is reproduced as under:-

"12. Bail of juvenile.- (1) When any person accused of a bailable or nonbailable 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.

(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”.

While declining the bail of the present petitioner, no reasonable grounds have been made out which would show that on release of petitioner on bail will likely to bring him with any known criminal or expose him to moral, physical or psychological danger. It is not disputed that the grandfather of the petitioner is alive, thus, the Court could seek bonds from his father and he can look after the petitioner. The exception made out in Rule 12 of the Act are also not spelt out in the impugned orders.

Without commenting on the merits of the case, petition stands allowed. Orders dated 21.09.2015 and 11.07.2016 are set aside and petitioner is ordered to be released on bail subject to the satisfaction of Juvenile Justice Board, Amritsar.

November 18, 2016
Poonam (II)

(RITU BAHRI)
JUDGE

Whether speaking/reasoned:

Yes

Whether reportable

No