

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

Crl. Revision No. 4114 of 2016 (O&M)
Date of decision: 22.12.2016

Rinku (minor) son of Satbir Singh

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Neeraj Yadav, Advocate
for the petitioner.

Mr. Sanjay K. Saini, AAG, Haryana.

JAISHREE THAKUR, J. (Oral)

The petitioner, who is a juvenile in conflict with law, is facing inquiry before the Principal Magistrate Juvenile Justice Board, for the offences under Sections 376/454 IPC. During the inquiry, the petitioner sought bail, which was declined by the Principal Magistrate, Juvenile Justice Board on 2.9.2016. Feeling aggrieved against that order, he filed an appeal before the Additional Sessions Judge, Rewari, which too was dismissed.

Aggrieved against the orders of the courts below, the instant revision has been filed for grant of bail to the petitioner.

The facts, in brief, are that on the intervening night of 12/13.7.2016 at about 1 a.m., when the prosecutrix was sleeping at her home, the juvenile in conflict with law, after jumping over the wall of her house entered the room and committed rape upon her thrice till 4 a.m., after

tying her and thereafter left the place, while threatening to kill her, in case she disclosed the occurrence to anyone. On the complaint made by the prosecutrix, the aforesaid FIR under Sections 376/452 IPC was registered against the petitioner. The petitioner was arrested on 14.7.2016 and since then he is lodged in the Observation Home at Hisar.

Learned counsel for the petitioner submits that nothing is to be recovered from the petitioner as the inquiry is complete and the police has already presented the challan against the petitioner for the alleged offences, as such, the petitioner deserves to be released on bail. It is further submitted that inquiry is likely to take some time to complete. It further submitted that the learned courts without considering the submissions in right perspective and has dismissed the application. He relies on **Bittu Versus State of Haryana 2015 (2) RCR (Criminal) 316** to contend that bail could not be rejected on the ground of gravity of offence. It is further submitted that the petitioner is lodged in the Observation Home since 14.7.2016 i.e. more than five months and as per Rule 14 (1) of the Haryana Rules framed under the Juvenile Act, the entire proceedings in respect of the juvenile are to be completed within a period four months, which period is extendable upto six months in case there are large number of witnesses and cognizance to this effect is also taken by the Board.

Per contra, learned counsel for the State submits that the offence allegedly committed by the petitioner is heinous in nature and as such the bail has rightly been declined by the courts below.

I have heard learned counsel for the parties and gone through the record of the case.

The provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (*for short 'the Act'*) are mandatory in nature. Section 12 of the Act stipulates that 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 or in any other law for the time being in force, be released on bail with or without surety and placed under the supervision of a Probation Officer or under the care of any fit person. The bail can only be denied in those cases where it appears that release is likely to bring that person 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. In declining bail, the Board shall record the reasons for declining the bail and circumstances that led to that decision.

The learned appellate Board dismissed the bail application on the ground that the juvenile is likely to come in contact with the association with criminals and would expose him to moral, physical and psychological danger and the said release would defeat the ends of justice. One of the grounds would be sufficient to reject the bail application.

In the instant case, as per the Act, the entire proceedings ought to have been completed within 4 months (extendable by upto 6 months), which is not the case here. The Juvenile has been in custody from 14.7.2016 i.e. more than five months and nothing is to be recovered from petitioner. The inquiry is likely to take some time, hence the petitioner deserves to be released on bail.

Consequently, relying upon ratio of the judgment rendered in **Bittu's case (supra)** and in view of the fact that the bail could not be refused on the ground of gravity of the offence, without expressing any opinion on the merit of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing the adequate personal bond and surety bond by his natural guardian to the satisfaction of Principal Magistrate, Juvenile Justice Board/Duty Magistrate concerned.

The petition stands allowed on the above terms.

22.12.2016

prem

(JAISHREE THAKUR)
JUDGE