

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

**Crl. Rev. No.474 of 2016**

Date of Decision: 11.02.2016

Arvinder Singh @ Ravinder Singh

....Petitioner

Versus

State of Punjab

....Respondent

**BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. K.D.S. Sodhi, Advocate  
for the petitioner.

Mr. Rupam Aggarwal, D.A.G., Punjab  
for the respondent-State.

Mr. Manbir Singh, Advocate  
for the complainant.

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**DAYA CHAUDHARY, J.**

The present revision petition has been filed to challenge the impugned order dated 23.12.2015 passed by the Principal Magistrate, Juvenile Justice Board, Ferozepur as well as order dated 18.01.2016 passed by the Sessions Judge, Ferozepur, whereby, the prayer of the petitioner for grant of bail has been declined.

Briefly, the facts of the case are that the petitioner was arrested in case FIR No.27 dated 19.03.2014 for offence punishable under Section 304-B IPC registered at Police Station Lakho Ke Behram, Ferozepur on the basis of statement of Avtar Singh, father of deceased Baljinder Kaur. The matter was inquired into by the Investigating Agency

and the petitioner was found innocent. Challan was not presented against him but subsequently, vide order dated 13.05.2015, he was summoned in an application moved under Section 319 Cr.P.C as an additional accused to face trial along with other accused, who were facing trial. The petitioner was granted interim anticipatory bail by this Court and he was directed to furnish bail bonds before the trial Court but later on, his bail application was dismissed as withdrawn as the same was maintainable under Juvenile Justice Act and he was directed to avail alternate remedy available to him. The application moved by the petitioner before the Juvenile Justice Board as well as Appellate Court was dismissed without following the provisions of Section 12(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000 (here-in-after referred to as 'the Act, 2000').

Learned counsel for the petitioner submits that granting of bail to juvenile is mandatory irrespective of nature of the offence and the same can only be declined, if reasonable grounds are there to believe that his release is likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. The bail application of the petitioner has been declined by both the Courts below i.e Juvenile Justice Board as well as Appellate Court, Ferozepur without having any material on record or without recording any finding.

Learned counsel for the respondent-State opposes the grant of bail to the petitioner on the ground of seriousness of offence.

Heard the arguments of learned counsel for the parties and have also perused the impugned orders as well as the allegations levelled in the FIR.

In the present case, the petitioner was found innocent during investigation and was kept in column No.2. Subsequently, he was

summoned under Section 319 Cr.P.C. The age of the petitioner is not disputed and admittedly, he was juvenile at the time of alleged occurrence. Both the Courts below have not taken into consideration the fact as to how the petitioner would come in contact of known criminals who would expose him to moral, physical and psychological danger or how his release would defeat the ends of justice as neither the petitioner nor any of his family member is having any criminal background. No such evidence was even available with the Courts below, where, the application of the petitioner was dismissed.

Section 12 of the Act, 2000 reads as under :-

**“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 1 [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.”

From the bare reading of the provisions of Section 12 of the Act, it appears that the intention of the legislature is to grant bail to the juvenile irrespective of the nature or gravity of the offence, alleged to have been committed by him and the same can be declined only in the case where reasonable grounds are there for believing that the release is likely to bring him into the association of any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

Meaning thereby, as per aforesaid provision, a juvenile can be denied the concession of bail, if any of the three contingencies specified under Section 12(1) of the Act is available.

Vide order dated 16.11.2015 passed by the Principal Magistrate, Juvenile Justice Board, Ferozepur, the bail application of the petitioner has been declined on the ground that he may come in contact of known criminals but no material was available on record to show as to how he would come in contact of known criminals.

Similarly, the appeal filed against the said order has also been dismissed on the ground that release of the petitioner would bring him in association with the known criminals or expose him to moral, physical or psychological danger.

In the present case, while declining the bail application, the relevant provision has not been considered by both the Courts below as in accordance with Section 12 of the Act, the juvenile is entitled to bail as a matter of right unless the case falls in the exceptions carved out in the provision itself but nothing was available on record to show that any of the three exceptions specified under Section 12(1) of the Act was existing.

Similar view was observed in cases ***Manoj Singh vs State of***

***Rajasthan 2004(2) RCC 995, Lal Chand v.State of Rajasthan 2006(1) RCC 167, Prakash v. State of Rajasthan 2006(2) RCR (Criminal) 530 and Udaibhan Singh alias Bablu Singh v. State of Rajasthan 2005(4) Crimes 649.***

Learned counsel for the respondent-State has also not pointed out any material available on record to show that there are reasonable grounds for believing that the petitioner is likely to come into the association of any known criminal if released on bail or his release will expose him to moral, physical or psychological danger. Petitioner is in custody since 28.10.2015 and no purpose will be served, in case, he is kept in custody.

In view of the totality of the facts and circumstances of the case and law position as discussed above, both the Courts below have not satisfied the requirement of provisions of Section 12(1) of the Act and without having any material on record, the bail application of the petitioner has been declined. The impugned orders are not sustainable in the eye of law and as such, are liable to be set aside.

Accordingly, the present revision petition is allowed and the impugned orders i.e order dated 23.12.2015 passed by the Principal Magistrate, Juvenile Justice Board, Ferozepur and order dated 18.01.2016 passed by the Sessions Judge, Ferozepur are hereby set aside. The petitioner is directed to be released on bail subject to his furnishing adequate bail bond/surety bonds through his natural guardian or near relative to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Ferozepur.

11.02.2016  
**gurpreet**

(DAYA CHAUDHARY)  
JUDGE