

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

(110)

CRR-504-2016 (O&M)

Decided on: March 02, 2016.

Rakesh @ Rinku

.... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

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

M.M.S. BEDI, J (ORAL)

Petitioner, an accused in a murder case, claims that his date of birth is 01.01.1998 whereas the alleged offence was committed on 26.02.2015 and he was juvenile on that date.

The Judicial Magistrate Ist Class, Loharu as well as the Appellate Court at Bhiwani have taken into consideration the oral and documentary evidence produced on behalf of the petitioner to establish his juvenile status on the date of occurrence. The birth certificate Ex. A-3 produced by the petitioner has been discarded by the Courts below on the ground that the entry in the birth and death register was made on 11.05.2015 after the registration of the FIR. The said document appears to have rightly been discarded by both the Courts below.

In view of the uncertainty of nature of evidence produced in the form of school record, medical opinion was sought from the Medical Board as per the provisions of Rule 12 (3) (b) of the Juvenile Justice (Care and Protection of Children) Rules, 2007. As per the report, the age of the petitioner was held to be not less than 19 years as on 18.08.2015.

I have heard learned counsel for the petitioner who has vehemently contended that on the basis of the record of Government Middle School Kherubadi, Rajgarh, the petitioner should have been declared a juvenile. The certificate Annexure P-1 issued by the school indicates that he joined the school in 8th class on 01.05.2009. On account of non-availability of any record regarding the initial admission of the petitioner in any school, I do not find any infirmity in the order passed by the Courts below.

It is not out of place to observe here that as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 which has come into operation w.e.f. 01.01.2016, in case of a heinous offence, alleged to have been committed by a juvenile, who has attained age of 16 years, the Board has been given an authority to conduct a preliminary assessment with regard to the mental and physical capacity of a person claiming to be juvenile, to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence and to pass an order in accordance with the provisions of Section 18 (3) of the said Act. The petitioner admittedly is more than 16 years of age.

In view of above said circumstances, I do not find any ground to interfere in the orders passed by the Courts below.

Dismissed.

(M.M.S. BEDI)
JUDGE

March 02, 2016
harsha