

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

CRM-M-26934-2017

Date of decision: 27.07.2017

Harpreet Singh @ Happy

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. B.S. Jatana, Advocate,
for the petitioner.

JAISHREE THAKUR, J. (ORAL)

The instant petition under Section 438 Cr.P.C. has been filed by the petitioner for grant of anticipatory bail in case FIR No. 67 dated 21.07.2016 under Section 365, 376, 120-B IPC, registered at Police Station Sardulgarh, District Mansa.

It is contended by learned counsel for the petitioner that the petitioner is a juvenile by relying upon birth certificate as well as school leaving certificate which would reflect his date of birth to be 26.05.1999.

In *Satyendra Sharma Vs. State of Madhya Pradesh*, reported in **2014(2) MPLJ (Cri) 374** it was laid down that application for grant of anticipatory bail cannot be entertained by the High Court or the Court of Sessions but can be exercised only when proceedings come before them in appeal, revision or otherwise except under Sections 438 and 439 of Cr.P.C. Relevant portion of the said judgment reads as under :-

“21. The anticipatory bail can be granted in anticipation of arrest but such proceedings are not inserted in the Act. The only provision for bail of Juvenile is given under Section 12 of the Act which has been discussed as above.

22. In view of the aforesaid discussion, this Court is of the

view that application for grant of anticipatory bail preferred by the juvenile cannot be entertained by the High Court or the Court of Session by applying the provision contained under Section 6(2) of the Act. The powers conferred on the Board can be used by the High Court and the Court of Session only when proceedings come before them in appeal, revision or otherwise except under Section 438 and 439 of Cr.P.C. Therefore, I respectfully disagree with the interpretation made by the learned Single Judge of the Hon. Rajasthan High Court and Hon. Chhattisgarh High Court.”

A similar view has recently been taken by the High Court at Madras in ***Crl. O.P.(MD) No. 23992 of 2015*** titled as ***Minor Y. Pathe Khan vs. The State.***

The Juvenile Justice Board is competent to hear the matters in relation to offences committed by the juvenile, who has been defined to be a person under the age of 18 years. The petitioner herein is alleged to have been born on 26.05.1999.

Since this Court has held in ***Saurav @ Balwant vs. State of Punjab, CRM-M-44705-2016*** decided on 03.07.2017 that the enquiry regarding determination of age is to be conducted by the Juvenile Justice Board if any application has been filed, this Court is not inclined to interfere in the matter. However, the petitioner is granted liberty to approach the Juvenile Justice Board for grant of bail. Interim protection from arrest is granted till the 01.08.2017 to enable him to approach the Juvenile Justice Board.

Petition stands disposed of.

27.07.2017

Satyawan

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes.
No.