

208

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No.33941 of 2017 (O&M)
Date of Decision: 06.12.2017

Kashish (minor)

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Gautam Dutt, Advocate,
for the petitioner.

Mr. Tanuj Sharma, A.A.G., Haryana.

SUDIP AHLUWALIA, J. (ORAL)

In this petition, the petitioner seeks his release on regular bail in F.I.R. No.322, dated 09.09.2016, under Sections 364-A/302/34 of the Indian Penal Code, registered at Police Station Butana, District Karnal.

2. The petitioner was arrested on 10.09.2016 and is presently facing trial being a juvenile in conflict with law in the Children Court at Karnal. His prayer for bail was rejected by the Ld. Trial Court vide the order dated 26.07.2017, with the following observations-

“Since a young son of the complainant side has been allegedly murdered by the juvenile facing trial before this Court as an adult accused, his release on

bail may rather adversely effect the well being of the juvenile. No such undertaking of his nana is there on the file of the bail application vide which he would have undertaken to take care of the juvenile and to bring him up at Panipat. Even if the juvenile is taken away by his nana to Panipat for his upbringing, the child may return from that place to his native place and the Court may not be having any watch on his transit etc.

6. A plea is raised in the bail application that the family of the juvenile has shifted from Nilokheri to Panipat since his arrest but there is no documentary proof to corroborate the said fact. As such, the Court is of the view that the release of the petitioner on bail is likely to expose him to any kind of moral, physical or physiological danger, if he is released on regular bail at this stage. Moreover, the release of the petitioner to regular bail may defeat the ends of justice, for the cry of the society is to be balanced by the Court as against the right of the petitioner.”

3. On 22.11.2017, it was submitted on behalf of the petitioner that his own maternal grandfather is ready to take his custody and to ensure that he is always kept under watch.

4. However, according to Ld. Counsel for the petitioner, the apprehension expressed by the Ld. Trial Court regarding the possibility of the petitioner/juvenile returning from the place of his *nana* to his native place is uncalled for.

5. After hearing submissions of Ld. Counsel for both sides, the final order was kept in abeyance, while directing the State Authorities to verify whether the deponent Sher Chand Kapoor is actually the maternal grandfather of the juvenile concerned and what is the present residential

address of the juvenile's own parents.

6. Ld. State Counsel, on instructions from A.S.I. Krishan Kumar, apprises this Court that on verification, the deponent Sher Chand Kapoor has been found to be the actually maternal grandfather of the juvenile concerned. He as well as parents of the juvenile are both the residents of Panipat.

7. In the given circumstances, the apprehension of the Ld. Trial Court to the effect that, "*the child may return from that place to his native place*" would appear to be unfounded in the changed circumstances, since by now even his parents have shifted to Panipat, which is outside the District in which the offence was committed.

8. In the circumstances at this stage, the present petition is allowed and the petitioner, namely Kashish son of Ravinder Kumar @ Ravi, is directed to be released on regular bail to the satisfaction of the Ld. Trial Court with an additional condition that he shall regularly report at the Police Station nearest to his present place of residence on such periodical intervals as deemed fit and proper by the Ld. Trial Court during pendency of the trial.

06.12.2017

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No

2. Whether reportable : Yes/ No