

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.No.M-41134 of 2016 (O&M)

Date of Decision: March 07, 2017

Rahul Maan son of Shri Kuldeep SinghPetitioner

Versus

The State of PunjabRespondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Charanpreet Singh, Advocate for
Mr.BS Kathuria, Advocate for the petitioner.

Mr.PS Grewal, Deputy Advocate General, Punjab.

<><><>

TEJINDER SINGH DHINDSA, J.

The instant petition has been filed under Section 439 of the Code of Criminal Procedure seeking benefit of regular bail to the petitioner pending trial in a case FIR No.105 dated 1.9.2014, under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act and under Sections 382, 411 of the Indian Penal Code, registered at Police Station Phagwara City, District Kapurthala.

2. Counsel for the parties have been heard.
3. As per prosecution version, the alleged recovery effected from the petitioner was of 80 grams contraband. As per report of the Chemical Examiner, the same was found to be containing Diphenoxylate hydrochloride. Such quantity is construed as commercial.

4. Be that as it may, it is a case of the petitioner that his date of birth is 25.11.1996 and, as such, on the date of alleged recovery i.e. 1.9.2014 he was a juvenile.

5. Learned counsel has referred to Rule 12 of the juvenile Justice (Care and Protection of Children) Rules, 2007 which entails a procedure to be followed as regards determination of age and to be declared a juvenile. Under Rule 12 of the Rules, an enquiry is contemplated and in the first instance weightage is to be given to a Matriculation or equivalent certificate and in the absence thereof, the date of birth certificate from the School first attended and in the absence of even such document, the birth certificate given by a Corporation or a Municipal Authority or a Panchayat. Reliance has been placed by the counsel upon the birth certificate issued by the Registrar, Births and Deaths, Health and Family Welfare Department, State of Punjab at Annexure P1.

6. Learned State counsel, on instructions from ASI Paramjit Singh, would submit that the authenticity of such certificate already stands verified. In other words, it is the conceded case of the prosecution that the petitioner was below the age of 18 at the time of his arrest and alleged recovery of contraband i.e. on 1.9.2014.

7. Under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short "the 2000 Act"), a juvenile would be entitled to bail notwithstanding anything contained in the Code of Criminal Procedure unless there appear reasonable ground 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.

8. Section 12 of the 2000 Act is in the nature of safeguard or protection provided to the juvenile.

9. During the course of arguments, neither State counsel has advanced any submissions nor has adverted to any material on record for the present case to fall within any of the parameters envisaged under Section 12 of the 2000 Act and to thereby deny to the petitioner the grant of benefit of bail.

10. For the reasons recorded above, the prayer made in the present petition is accepted.

11. Petitioner is enlarged on bail subject to the satisfaction of the trial Court.

March 07, 2017
SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: *Whether speaking/reasoned?* *Yes/No*
 Whether Reportable? *Yes/No*