

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

**CRR No.1156 of 2016(O&M)
Date of Decision-19.01.2017**

Shiv @ Shiv Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rakesh Gupta, Advocate for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

RAJ MOHAN SINGH, J.

[1]. This criminal revision has been filed against the order dated 08.02.2016 passed by the Sessions Judge, Palwal whereby order dated 16.12.2015 passed by the Principal Magistrate, Juvenile Justice Board, Palwal was upheld and the bail was declined to the petitioner.

[2]. Petitioner is involved in case bearing FIR No.513 dated 08.08.2015 registered under Sections 302, 201, 34 IPC and Sections 24/54/59 of the Arms Act at Police Station Sadar, Palwal. FIR was registered on the statement of Bijender Singh. The complainant was a retired Head Master from Delhi Corporation. Complainant had two sons namely Hemraj and Jagmender @ Jugni. Elder son namely Hemraj was married and

younger son namely Jagmender @ Jugni was unmarried. A day before registration of the FIR at about 7.45 P.M in the evening, complainant called up his son Jagmender @ Jugni and the son informed him that he was in the market at that time and was in the process of reaching the home. The son was in the market in connection of transferring money in the mobile of his friend. Son of the complainant did not turn up. On 08.08.2015, in the morning at about 6.45 P.M, the elder son of the complainant namely Hemraj went to the plot and found his brother lying on the bed under the tin shed and blood was oozing out of his head. The bullet injury was found. On informing by Hemraj, the complainant and the persons namely Sarvjit, Baljit and Bijender came to the plot and found Jagmender @ Jugni lying on the bed. Complainant suspected that someone had killed his son by firearm injury on his head. Complaint was lodged against the unidentified persons. Investigation was done by the Police.

[3]. During investigation, juvenile in conflict with law i.e. Purshotam was arrested. On interrogation, he suffered a disclosure statement admitting his involvement in the crime and he named the present petitioner as well. Allegations are of conspiracy to kill Jagmender @ Jugni on 07.08.2015 when the assailants while sitting in Ambedkar park conspired to kill Jagmender @ Jugni. Lalti @ Lalit had gone to village Aurangabad and he had given telephonic information regarding

location of Jagmender @ Jugni so as to facilitate the petitioner and his co-accused to complete the act.

[4]. The juveniles hide themselves adjacent to the plot of Jagmender @ Jugni. Purshotam fired upon Jagmender @ Jugni with firearm and thereafter, they escaped on the motorcycle. Purshotam got recovered a country made pistol and cartridge from his house. He also got recovered mobile phone along with sim on the basis of his disclosure statement. Co-accused Lalit also got recovered motorcycle used in the crime on the basis of his disclosure statement. Petitioner was arrested on 16.08.2015.

[5]. Learned counsel for the petitioner contended that the Courts below have wrongly observed that the release of the petitioner would bring him into association with some unknown criminals and would expose him morally, physically and socially and the ends of justice would be defeated.

[6]. On the other hand, learned State counsel submitted that the Courts below passed the impugned orders only after perusal of report of Probationary Officer appointed under Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Juvenile Act') which revealed that one case bearing FIR No.383 dated 31.07.2014 under Sections 148, 149, 323, 302 IPC and Section 3 of the SC and ST Act, Police Station Camp, Palwal was pending against the petitioner. As per proviso to Section 12 of the Juvenile Act, a juvenile in conflict with law

should not be released on bail if reasonable grounds exist for believing that his release would likely to bring him into association with known criminals and would expose him morally, physically and psychologically and ends of justice would be defeated. Since one more murder case is pending against the petitioner, therefore, learned State counsel emphasized that the petitioner is involved in heinous crimes and this material is sufficient to form an opinion that he would definitely come into association with known criminals and would be exposed in the event of his release on bail.

[7]. I have heard learned counsel for the parties.

[8]. In terms of Section 12 of the Juvenile Act and rules framed thereunder, the gravity of offence is immaterial. The only consideration at the time of grant of bail is that the Court is required to reach a conclusion that the ends of justice would be defeated in the event of grant of bail to the juvenile in conflict with law. Grant of bail to the juvenile in terms of Section 12 of the Juvenile Act is a general rule and refusal is an exception. Bail can only be refused in three situations where reasonable grounds appear for believing that the release of the juvenile in conflict with law is likely to bring him into association with known criminals. Secondly, his release would expose him morally, physically and psychologically and thirdly, his release would defeat the ends of justice. The satisfaction of the Court has to be

formed on the basis of some relevant material on record. In terms of Rule 14(1) of the Juvenile Act, the Board has to complete inquiry within stipulated period and thereafter, on recording a finding in respect of involvement of juvenile, one of the seven dispositional orders enumerated in Section 15 of the Juvenile Act has to be passed.

[9]. Since, the FIR was registered on 08.08.2015, therefore, it can be seen that the inquiry by the Board has not been completed within the prescribed time. Besides the aforesaid violation, the gravity of an offence could not be a ground to refuse bail to the juvenile. For declining bail to the juvenile, the Court has to record a finding that ends of justice would be defeated in the event of grant of bail. Apparently, in the FIR, none of the accused was named. FIR was registered only against some unknown persons. The evidentiary value of disclosure statement made by Purshotam in police custody has to be lawfully appreciated during the trial. Petitioner is in custody since 16.06.2015. Principal Magistrate, Juvenile Justice Board, Palwal declined the bail only on the premise that the release of the petitioner on bail would bring him into association with hardcore criminals.

[10]. The aforesaid assessment of the facts and circumstances of the case would show that Section 12 of the Juvenile Act is mandatory in nature. *Prima facie*, there is no

satisfactory evidence on record that the release of the petitioner would bring him into association with hardcore criminals and would expose him morally, physically and psychologically or the release would defeat the ends of justice.

[11]. In view of aforesaid, I am of the view that the impugned orders passed by the Courts below are not legally sustainable and therefore, they are set aside. Petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of Principal Magistrate, Juvenile Justice Board, Palwal.

(RAJ MOHAN SINGH)
JUDGE

19.01.2017
Prince

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No