

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Revision No. 4159 of 2016

Date of decision : April 20, 2017

Sona Singh @ Sonu

....Petitioner

versus

State of Haryana

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Rajesh Arora, Advocate, for the petitioner
Mr. Deepak Sabharwal, Addl. AG, Haryana, for the respondent

Fateh Deep Singh, J. (Oral)

Petitioner Sona Singh @ Sonu presently in preventive custody has come up under section 53 of Juvenile Justice (Care and Protection of Children) Act, 2000 (in short, the Act) whereby he has filed instant revision and sought to challenge order dated 14.1.2016 of learned Additional Sessions Judge, Gurgaon whereby his appeal against order dated 23.11.2015 rejecting his bail application by Principal Magistrate, Juvenile Justice Board, Gurgaon (in short, the Board) was dismissed.

The brief facts as have been spelled out in the arguments of the two sides and otherwise are emancipated from the records are that on

5.5.2015, the police of Police Station DLF, Phase II, Gurgaon received telephonic intimation as to murder of a youth in a shoot out. The police swung into action and meanwhile the victim (now deceased) Pankaj Kumar a native of Uttar Pradesh died while being taken to the hospital. It was during the course of investigations it was found that the petitioner along with his co-accused non-applicant Ayub who is facing a separate trial being a major were instrumental in this occurrence. The police in investigations came to the conclusion that the petitioner committed robbery when the deceased was going on his motorcycle bearing No. HR-99-Temp-VC-0998 mark Hero Splender Plus and while snatching the vehicle his co-accused Ayub fired a shot from the country made pistol hitting the victim who died, as a consequence of which the present case by way of FIR No. 230 dated 5.5.2015 under sections 302/397 IPC was registered at the said police station. It was during the police investigation it was further revealed that the petitioner was a desperate criminal and was earlier involved in another three separate cases being FIR No. 424 under sections 332, 353, 186, 307 IPC and 25 of Arms Act, Police Station Sector 39, Gurgaon; FIR No. 222/15 under section 379 IPC and FIR No. 212/15 under the Arms Act pertaining to Police Station Sector 18, Gurgaon. During the course of trial the juvenile the present petitioner moved application for his bail which was declined through orders dated 23.11.2015 Annexure P/2 by the Board and subsequently on filing the appeal against the said order the same stood

dismissed by learned Additional Sessions Judge, Gurgaon through impugned orders dated 14.1.2016 Annexure P/1.

Appreciating the submissions of the two sides, counsel for the petitioner has sought to highlight that the petitioner is under protective custody for almost one year and the maximum awardable sentence to a juvenile is three years and thus, substantial period having undergone and relying on **Court on its own Motion vs State of Haryana, 2011(22) R.C.R. (Criminal) 894 and Ashok Kumar @ Ram Singh vs State of Haryana, 2016 (3) RCR (Criminal) 1043** has sought to vouch that the impugned orders have failed to take cognizance of this fact seeking setting aside of the orders and acceptance of the revision to enable the petitioner come out of his preventive custody.

The prayer has been sought to be opposed by the learned State counsel submitting that the petitioner is a hardcore criminal facing four cases and mere juvenility or period of incarceration does not come in the way.

Appreciating these submissions, counsel for the petitioner could not displace the fact that at the time of passing of the impugned orders Annexure P/1 and P/2 the petitioner was facing four different criminal cases which were of heinous nature. The allegations against juvenile in the present case revolves around an act of robbery and in the process murdering the victim to rob of his vehicle. The same has been duly considered in the

impugned orders of the two courts below and which has led to the denial of this right to the petitioner. It has been rightly submitted by the learned State counsel that mere period of incarceration and the fact that on account of previous criminal conduct of the petitioner he is already facing four criminal charges and including the present is 5th one and merely by keeping him in preventive custody does not mean or can be construed that by virtue of such a long stay would amount to denial of justice as mere period of such custody is not the sole determining factor. The Court has to strike a balance by keeping the conduct of the petitioner in the past and the case in which he has come up before the Court and the likely repercussions and apprehensions of the State as the State has expressed reasonable apprehension that on account of a history of crimes, the petitioner would be a grave threat to the society at large and the city of Gurgaon is already wilting under such crimes which is in the vicinity of the capital of the Country and thus, even by the analogy that courts being tools of social justice certainly such a vital thing cannot be ignored and brushed aside and needs to be taken note of. Thus, in the interest of administration of justice and trying to strike balance in view of what has been sought to be projected before this Court and is reflected from the records, this Court does not find any illegality or perversity in the impugned orders. Rather this Court foresees that the State needs to take preventive care of the juvenile and keeping in view his young age needs to bring him on to the rails and path of

rectitude from which he has wandered away by providing him with necessary education treating him psychologically so that a protected change is brought about in him and if he is left unprotected would certainly be again a factor by virtue of which at this young age on account of peer pressure he may again join this “notional attitude” of thrilling and challenging life of crime which he might be perceiving in this young age. Thus, in the true interest and keeping in view the aforesaid, this Court does not feel inclined to show any indulgence. Having no merit, the present revision petition is dismissed.

April 20, 2017
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?

Yes/No

Whether Reportable ?

Yes/No