

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

**CRR No.4454 of 2016
Date of Decision-19.01.2017**

Riyaz Ahmed and another ... Petitioners

Versus

State of Haryana ... Respondent

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

Present: Mr. Rajesh Lamba, Advocate for the petitioners.

Ms. Gaganpreet Kaur, AAG, Haryana.

RAJ MOHAN SINGH, J.

[1]. This criminal revision has been filed by the petitioners against the judgment dated 26.10.2016 passed by the Additional Sessions Judge, Faridabad whereby order dated 14.09.2016 passed by the Principal Magistrate, Juvenile Justice Board, Faridabad was upheld.

[2]. Petitioners are juveniles and are involved in a criminal case bearing FIR No.502 dated 01.08.2016 registered under Sections 323, 302, 201, 34 IPC, Police Station Surajkund, Faridabad. FIR was got registered on the statement of Sartaj Ali with the allegations that on 01.08.2016, at about 8.00 A.M when the complainant was cleaning the drain in front of his house, then his neighbour Sittu came and told him that he will clean the drain in front of his house. Complainant refused and he took his brother

Aasif for cleaning the drain from the point where it was stopped. Thereafter, younger brother of Sittu tried to hit the complainant with a Suan (used for breaking ice). The complainant saved himself, then Sittu snatched the aforesaid Suan from the hands of his brother and hit the brother of the complainant Aasif on the left side of his neck. In the meanwhile, brother of Sittu gave a danda blow on left shoulder of the complainant. On raising alarm, neighbours attracted to the spot and saved the complainant otherwise accused would have beaten them more. Complainant took his brother to the hospital for treatment where his brother Aasif was declared dead due to injuries received in the occurrence.

[3]. Complainant alleged that he and his brother were beaten up by Sittu and his brother. The deceased was a victim of accident and a rod was inserted in his leg, therefore, he was having disability in walking. Complainant further alleged that one lady member of the family of the accused and three other persons were also with them and they had caught the complainant and his brother Aasif and gave injuries. Complainant asserted that had his brother not been caught by brother of Sittu etc., his brother would not have expired.

[4]. Learned counsel for the petitioners contended that the petitioners were not specifically named in the FIR and they were arrested on 04.08.2016. Petitioners are students and have clean antecedents. In view of Section 12 of the Juvenile Justice (Care

and Protection of Children) Act, 2015 (for short 'the Juvenile Act'), petitioners are entitled to be released on bail.

[5]. On the other hand, learned State counsel submitted that the petitioners are involved in a heinous crime of murder and material witnesses have not been examined so far. The juveniles in conflict with law, if released on bail, would affect the depositions of the witnesses. Learned State counsel further contended that there are reasonable grounds of believing that the release of the juveniles in conflict with law would bring them into association with known criminals and their release would expose them to moral, physical or psychological danger and their release would defeat the ends of justice. Since the juveniles in conflict with law are accused of aggravated offences, therefore, it would be in the interest of the juveniles themselves that they should not be exposed to the society so as to prevent them from earning unnecessary wrath of the complainant party and the society, as there may be retribution and retaliation of the act of the petitioners in the event of their release on bail.

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

[7]. 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 juveniles in conflict with

law. Grant of bail to the juveniles 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 juveniles in conflict with law is likely to bring them into association with known criminals. Secondly, their release would expose them morally, physically and psychologically and thirdly, their 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. As per rule 14(1) framed under the Juvenile Act, the proceedings in respect of juvenile are to be completed within a specified period. The Board has to complete every inquiry within stipulated time and on recording a finding about the involvement of the juvenile in the alleged offence, one of the seven dispositional orders enumerated in Section 15 of the Juvenile Act has to be passed.

[8]. In view of facts and material on record, I am *prima facie* convinced that there are no circumstances on record which would disentitle the juveniles to claim bail. The impugned orders are lacking in terms of material on record to bring the case within the situations, where the concession of bail to them could be declined.

[9]. Taking into consideration the facts and circumstances of the case, it is concluded that the impugned orders passed by the Courts below are not legally sustainable and therefore, they are set aside. Consequently, present criminal revision is accepted.

Petitioners/juveniles in conflict with law are ordered to be released on bail subject to their furnishing adequate bail bonds and surety bonds through their guardians to the satisfaction of Principal Magistrate, Juvenile Justice Board, Faridabad.

(RAJ MOHAN SINGH)
JUDGE

19.01.2017
Prince

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