

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

CRR No. 1420 of 2017(O&M)

Date of decision: 26.4.2017

Maan Singh @ Mani

....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. J.S. Jaidka, Advocate for the petitioner.

REKHA MITTAL, J.

The present petition directs challenge against orders dated 27.01.2017 passed by the Principal Magistrate, Juvenile Justice Board Ludhiana (in short 'the Board') and dated 18.03.2017 by the Additional Sessions Judge, Ludhiana whereby application filed by the petitioner (child in conflict with law) for release on bail was dismissed by the Board and the appeal preferred against the order passed by the Board did not find favour with the Additional Sessions Judge, Ludhiana.

FIR No.176 dated 19.10.2016 under Sections 376, 384 of the Indian Penal Code, 1860 and 4 of the Protection of Children from Sexual Offences Act, 2012 was registered at Police Station Sadar, Ludhiana at the instance of prosecutrix (name kept concealed) aged 15 years, a student of 10th class at BCM School, Basant Avenue. As per the allegations, when the prosecutrix was in 8th standard, she met the petitioner at her tuition centre and they started talking to each other on mobile phone. One day, the prosecutrix along with the accused, his sister and brother-in-law Maldip Bhullar went to see a movie in September 2015. After watching the movie, Mithu, sister of Mani (petitioner herein) gave her a cold drink

and after having cold drink, she became unconscious. Mithu took her in a room and when she (prosecutrix) gained consciousness she found herself nude and was having pain and bleeding. Thereafter, Mani gave her I-pills. Mani left her at her house on her Aactiva at about 6-7 PM. In October 2015, Mani started blackmailing her by saying that he will upload her video on 'YouTube' and show her video to her school-mates. Mani snatched her mobile phone and typed vulgar messages. Mani, many a times, had illicit relations with her by threatening to upload her video on 'YouTube'. He also took two gold bangles, four gold lady rings, three pairs of gold ear-rings and Rs.2-3 lakhs in cash by extending threat.

The Board dismissed the application for bail by taking into consideration the allegations levelled by the prosecutrix on the basis whereof it was held that such kind of act would expose the child to moral, physical or physiological danger and would also expose him to collective wrath of the society as such kind of acts are taboo being prohibited and unacceptable by the society at large. As has been noticed hereinbefore, the order passed by the Board was affirmed in appeal, however, with the observations that the learned Magistrate has recorded his satisfaction founded on materials on record, therefore, no ground is made out to interfere in the well-reasoned impugned order.

Counsel for the petitioner has submitted that the provisions of Juvenile Justice (Care and Protection of Children) Act, 2006 (in short 'the Act') are a benevolent legislation meant for care and rehabilitation of a child in conflict with law. It is further submitted that keeping in view the legislative intent duly reflected in Section 12 of the Act, a child in conflict

with law ordinarily is to be allowed bail and refusal of such benefit is an exception only if the case satisfies the following three situations namely

- (i) if there appears reasonable ground for believing that the release of the child is likely to bring him into association with any known criminal;
- (ii) the release will expose the child to moral, physical or psychological danger; and
- (iii) his release would defeat the ends of justice.

It has further been argued that the allegations raised against the child in the FIR itself cannot be a ground to deny the benefit of bail. Further argued that if the view taken by the Board for disallowing benefit of bail is affirmed, no child who has been charged with committing offence punishable under Section 376 IPC may be enlarged on bail. It is argued with vehemence that the child in conflict with law is ready to face the proceedings before the Board in accordance with law. In support of his contentions, he has relied upon judgments of this Court **Bittu Vs. State of Haryana, 2015(2) RCR (Criminal) 316; Sandeep @ Sipi Vs. State of Punjab, 2016(3) RCR (Criminal) 776** and **Vijay Kumar @ Chhotu (minor) through his mother Vs. State of Punjab, 2016(5) RCR (Criminal) 897.**

Counsel representing the State of Punjab has failed to point out any materials on record on the basis whereof case of the present petitioner can be covered within any of the three situations contemplated by Section 12 of the Act, to deny benefit of bail. The mere fact that the prosecutrix has levelled allegations against the child that he subject her to

sexual assault repeatedly under the threat of exposing her on social media and otherwise cannot be taken as a ground for denying the benefit of bail. In view of the above, orders passed by the Courts below cannot be allowed to sustain and liable to be set aside.

For the foregoing reasons, the petition is allowed; child in conflict with law is ordered to be released on bail to the satisfaction of Principal Magistrate, Juvenile Justice Board, Ludhiana.

APRIL 26, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no