

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No. 3375 of 2017 (O&M)

Date of Decision: 07.11.2017

Sanjay @ Laddu

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Ranjit Singh Ghuman, Advocate
for the petitioner.

Mr. V.G. Jauhar, Sr. D.A.G. Punjab

SURINDER GUPTA, J.(Oral)

Heard.

The petitioner moved application under Section 7-A of Juvenile Justice (Care and Protection of Children) Act for enquiry pertaining to age of petitioner, who had been arrested by the police in case bearing FIR No. 67 dated 28.06.2017, registered at Police Station Moti Nagar, Ludhiana for offence punishable under Section 18 of Narcotics Drugs and Psychotropic Substances Act, 1985. The petitioner claimed his date of birth in the application as 21.10.1999. In support of his contention he examined Santosh Devi, his mother as PW-1, Anita, teacher of Saint Soldier Divine Public School, Garhshankar, Hoshiarpur, where the petitioner had studied upto 10+1 class as AW-2. He also produced his birth certificate showing his date of birth as 21.10.1999, copy of his admission register, transfer certificate, Central Board of Secondary Education result card of Class 10 pertaining to examination and result of 2014. All these documents referred to date of birth of petitioner as 21.10.1999. On behalf of prosecution, SI

Jaspal Singh appeared and produced report certifying the date of birth of petitioner as 21.10.1999 by *Chowkidar* of village Gajjar, District Hoshiarpur.

Learned Additional Sessions Judge, Ludhiana while examining the plea of petitioner that his date of birth is 21.10.1999, rejected the same on the ground that in the school admission register, there is cutting in the month of birth of petitioner and a similar cutting was also there in the admission form where the month April appears to have been changed to October. The report submitted by investigating officer certifying the date of birth of petitioner as 21.10.1999 was also rejected on the ground that Gurmeet Singh *Chowkidar* has not been examined in this case.

Learned counsel for the petitioner has argued that learned trial Court while rejecting the plea of petitioner has referred to the cutting in admission register of petitioner pertaining to his admission in 10+1 class. However, there is nothing on record that date of birth in the birth certificate has been manipulated or the birth certificate is fake document. The petitioner took admission in 4th class in the school and as per entry in the admission register (Annexure P-6) date of birth of petitioner is mentioned as 21.10.1999. This entry was made on 14.03.2007. The Central Board of Secondary Education mark-list (Annexure P-8), which was produced as Ex. AW-2/A, is also containing the date of birth of petitioner as 21.10.1999. This document has also come in existence before the alleged tampering in the admission register [Annexure P-9 (Ex. AW-2/B)] or the admission form [Annexure P-12 (Ex. DX)]. The prosecution is relying on the date of birth of petitioner as 21.10.1999 and there was no reason for the trial Court to discard the verification conducted by SI Jaspal Singh, which was produced

before the Court as Ex. PA.

Learned State counsel while not contesting the police report has stressed on the fact that the petitioner was also involved in a case bearing FIR No. 923/2006, registered against him at Delhi and after taking the benefit of bail in that case on the plea of juvenility he again indulged in similar offence in this case where 5 kgs. of opium was recovered from his possession.

A vital question which calls for attention in this case is date of birth of petitioner, which as per evidence on record is 21.10.1999. Learned trial Court has not observed that birth certificate of the petitioner was fake one. It has also ignored the entry of date of birth in the admission register of the petitioner, when he took admission on 14.03.2007 and his Central Board of Senior Secondary Education mark-list for class X, which pertained to examination result of 2014. All these documents came into existence much prior to the entry in admission register and admission form (Annexure P-9 and P-12). The entry in the admission register was corrected by giving note that it is being corrected as per date of birth record and correction was also made in the admission register. The document on record prior to these entries clearly show that date of birth of petitioner is 21.10.1999. The order passed by learned trial Court, ignoring vital evidence on record, on the ground that there is some cutting in the admission register, which was made after coming into existence of earlier documents as discussed above, is not sustainable. The order is illegal, perverse and not passed on correct appreciation of evidence produced by the petitioner and even relied by the prosecution, as such, is set aside and petitioner is held to be a juvenile.

The instant revision is allowed on the above terms.

The case of the petitioner be referred to Juvenile Justice Board in accordance with provisions of Juvenile Justice (Care and Protection of Children) Act.

November 07, 2017

jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*