

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

CRR No. 73 of 2017(O&M)

Date of decision: 3.4.2017

Sukhwinder Singh @ Sunny

....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Varun Katyal, Advocate for the petitioner.

Mr. Mikhail Kad, AAG, Punjab.

REKHA MITTAL, J.

The present petition directs challenge against orders dated 18.10.2016 passed by the Principal Magistrate, Juvenile Justice Board, Moga (in short 'the Board') and dated 13.12.2016 by the Additional Sessions Judge, Moga whereby the Board cancelled bail bonds and surety bonds furnished by the juvenile and directed the juvenile to be taken into custody.

A brief backdrop of the case is that FIR No.145 dated 03.12.2015 under Sections 363, 366-A, 506 of the Indian Penal Code, 1860 (in short 'IPC') was registered at Police Station Kot Isse Khan against Sukhwinder Singh @ Sunny. The petitioner was released on bail vide order dated 23.12.2015 (Annexure P-3) and he was directed to furnish personal bond in the sum of Rs.50,000/- with one surety in the like amount. During pendency of proceedings before the Board, application was filed for cancellation of bail on the premise that the juvenile has

violated the conditions of bail bonds as he along with his brother Gurnam Singh and one unidentified person armed with weapons caused injuries to complainant Amrik Singh and one Makhan Singh, uncle of the complainant, when the complainant came to give evidence against the juvenile. FIR No.126 dated 21.07.2016 under Section 323/325 read with Section 34 IPC has been registered against the juvenile and his co-accused and copy of medico legal report dated 11.07.2016 of Makhan Singh was placed on record.

After the reply was filed by the juvenile and having heard counsel for the parties, the Board passed the order dated 18.10.2016 and a relevant extract therefrom reads as follows:-

"...Perusal of the above stated documents show that the juvenile Sukhwinder Singh has violated the conditions of the bail and there appears reasonable grounds for believing that the release of juvenile Sukhwinder Singh is likely to bring him into association of known criminals or will expose him to moral, physical or psychological danger and his being on bail would defeat the ends of justice. Accordingly the bail bonds and surety bonds so furnished by the juvenile Sukhwinder Singh stands cancelled. Let the juvenile be taken into custody and be sent to observation home..."

As has been noticed hereinbefore, the appeal preferred by the juvenile against the order passed by the Board did not find favour with the Appellate Court and was accordingly dismissed.

Counsel for the petitioner has challenged the orders passed by the Courts below primarily on two counts. The first submission made by counsel is that the Board while releasing the juvenile on bail did not spell out any condition(s) subject to which he was released on bail nor any such condition was mentioned in the personal bond and surety bond furnished in

pursuance of order dated 23.12.2015 vide which the petitioner was ordered to be released on bail. In addition, it is argued that the petitioner furnished his personal bond undertaking to appear in the Court on each day on which proceedings are held and in case of any default to forfeit to the Government a sum of Rs.50,000/-. Another submission made by counsel is that Section 12 of the Act does not deal with cancellation of the bail for the reasons that can weigh in the mind of the Board or Appellate/Revisional Authority to deny concession of bail to the juvenile, therefore, reasoning adopted by the Board that lodging of another FIR under Sections 323/325 read with Section 34 IPC is likely to bring the juvenile into association with known criminals or will expose him to moral, physical or psychological danger cannot justify cancellation of his bail bonds more particularly in the circumstances that as per the medico legal report of Makhan Singh, he sustained three injuries caused with a blunt weapon and the injury which has been attributed to the petitioner is simple in nature, at best, constituting offence under Section 323 IPC, bailable and non-cognizable . According to counsel, the provisions of the Act are meant for care and protection of children who come in conflict with law, therefore, such a benevolent legislation cannot be misused by cancelling the bail order/bail bonds merely on the ground that the complainant party lodged FIR No.126 dated 21.07.2016 for causing simple injuries to one Makhan Singh who is neither the complainant nor a witness of the prosecution in FIR No.145 dated 03.12.2015 under Sections 363, 366-A and 506 IPC in respect whereof, the petitioner is facing proceedings before the Board.

Counsel for the State in response to query raised by the Court vide order dated 30.03.2017, has informed that the injury attributed to the present petitioner sustained by Makhan Singh is simple in nature constituting offence under Section 323 IPC. However, counsel for the State has supported the impugned order with the submissions that since another FIR has been lodged against the juvenile and that too with the allegations that he along with co-accused attacked the complainant, bail order passed in his favour has rightly been cancelled by the Board and duly affirmed in appeal.

I have heard counsel for the parties, perused the paper-book particularly the various annexures appended with the petition.

Concededly, the Board while releasing the juvenile on bail did not put any condition subject to which he was released from confinement. The Court has held that no such fact has been brought-forth in the report which may indicate existence of any circumstance depicting that release of juvenile may bring him into association with known criminals or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. In the personal bond and surety bond furnished by the petitioner in pursuance of order dated 23.12.2015, the petitioner undertook to attend to the proceedings before the Board without any default failing which the bond amount of Rs.50,000/- may be forfeited to the Government. The mere fact that during pendency of the proceedings before the Board, another FIR has been registered against the petitioner and his co-accused for causing injuries to one Makhan Singh who is neither the complainant nor a witness in FIR No.145 dated 03.12.2015 under Section 363, 366-A IPC, in the considered opinion of this Court, is

not sufficient to record a finding that lodging of such an FIR has created reasonable grounds for believing that release of juvenile is likely to bring him into association of known criminals or would expose him to moral, physical or psychological danger and his release on bail would defeat the ends of justice more particularly in the circumstances that the injury attributed to the petitioner is a simple injury constituting offence under Section 323 IPC. Accordingly, orders passed by the Courts below are set aside and the juvenile shall be released from custody forthwith.

APRIL 3, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no