

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

CRR No. 752 of 2017

Date of Decision: 21.09.2017

SUHAIL & ANR

-PETITIONERS

V/S

STATE OF HARYANA

-RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present Mr. Shekhar Gupta, Advocate,
for the petitioners.

Mr. Vikas Malik, D.A.G., Haryana.

SUDIP AHLUWALIA, J. (ORAL)

In relation to the question which arose on the last date of hearing, learned State counsel draws attention of this Court to Section 5 and 6 of the Juvenile Justice Act in Chapter III. The legal position is that the petitioners are liable to be treated as juvenile even after having crossed the age of 18 years during pendency of the inquiry. Consequently, the revision in its present form is certainly maintainable.

2. The petitioners have challenged the impugned order dated 16.02.2017 passed by the Ld. Additional Sessions Judge, Jhajjar vide which their application for regular bail was rejected by the Ld. Sessions Judge with the following observations:-

“I have heard the rival contention and gone through the record. In the present matter very serious and heinous offences are invoked against applicants which shows that there is involvement of some organised criminals in the crime.

All this shows the lack of supervision, care and control over this juveniles by their parents/guardians. As per Section 12 of Juvenile Justice Act, a juvenile shall not be released on bail, if there appears reasonable grounds for believing that release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. Considering the over all circumstances, it seems that release of the applicant at this stage, from protective custody is likely to bring them in association with known criminals and may expose them to moral, physical and psychological danger. In view of same, the present bail application is declined.”

3. It is therefore seen that the factor weighing in the mind of the Ld. Court below was that release of the petitioners from protective custody was likely to bring them in association with known criminals and to expose them to moral, physical and psychological danger. There is, however, no reference to any specific material on the basis of which the Ld. Court below came to this conclusion, nor any such material been placed before this Court.

4. Consequently, the petitioners would be entitled to bail in terms of Section 12(1) of the said Act. It has, however been submitted on behalf of the State that release of the petitioners who are otherwise residents of a different State (Uttar Pradesh), could defeat the ends of justice in the event of their jumping bail. This would not appear to be a valid contention since the authority concerned can always direct imposition of appropriate

conditions in the bail order to ensure that the petitioners may not abscond.

5. With the aforesaid observations, the petition is allowed after setting aside the impugned order and the petitioners are directed to be released on bail upon such terms and conditions that the Juvenile Justice Board concerned may deem fit and proper to ensure that they are not able to abscond since in any event they have attained the age of majority now.

6. Original documents filed on behalf of the petitioners on the last date of hearing be returned to their counsel.

21.09.2017
 jyoti

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No