

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

CRR No.1408 of 2018 (O&M)  
Date of Decision: July 24, 2018

Yash Bhati

...Petitioner

Versus

State of Haryana

...Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present:- Mr. Kunal Dawar, Advocate  
for the petitioner.

Mr. P.P. Chahar, DAG Haryana.

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**JAISHREE THAKUR, J. (Oral)**

1. This is a criminal revision that has been filed seeking to challenge the order dated 28.03.2018 passed by the Additional Sessions Judge, Faridabad whereby, the appeal of the juvenile-petitioner under the Juvenile Justice (Care and Protection of Children) Act (for short 'the JJ Act') against the order dated 14.03.2018 passed by Principal Magistrate, Juvenile Justice Board, Faridabad rejecting bail application of the petitioner, has been dismissed.

2. In brief, FIR No.1153 dated 07.12.2017 came to be registered on the statement of Vipin Kumar (father of the prosecutrix), under Section 506 of Indian Penal Code (Section 452 IPC added later on) and Section 4 of POCSO Act, at Police Station Saran, District Faridabad. During the pendency of the proceedings under the aforesaid FIR before the trial court,

the petitioner herein has preferred an application seeking grant of regular bail before the Principal Magistrate, Juvenile Justice Board, Faridabad being juvenile, who dismissed the bail application of the petitioner by an order dated 14.03.2018, primarily on the ground that statement of the prosecutrix had yet to be recorded and there was reasonable apprehension that delinquent-juvenile would try to influence the prosecutrix and the witnesses. Against the said orders, an appeal was filed under the JJ Act, but the Additional Sessions Judge, Faridabad too dismissed the application for bail, by taking note of the apprehension of the prosecution that the prosecutrix would face mental trauma and that the petitioner herein would be in every position to influence her being immediate neighbour.

3. Learned counsel appearing on behalf of the petitioner prays for grant of bail to the petitioner, while relying Section 12 of the JJ Act which clearly specifies that when any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, shall be released on bail, with or without surety or placed under the supervision of the Probation Officer or under the care of any fit person.

4. Per contra, learned counsel appearing on behalf of the respondent-State submits that the petitioner herein being a juvenile is involved in a heinous offence, and therefore, the bail application rightly been dismissed by both the courts below, while taking into consideration that the young prosecutrix would be subjected to mental trauma and intimidation since, the petitioner herein is an immediate neighbour.

5. I have heard learned counsel for the parties and have perused

the orders of both the courts below.

6. Section 12 of the JJ Act is reproduced hereunder:-

*“12. (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person: Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person’s release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.*

*(2) When such person having been apprehended is not released on bail under subsection (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.*

*(3) When such person is not released on bail under subsection (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.*

*(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.”*

7. Section 12 of the JJ Act clearly provides that the bail cannot be denied to a juvenile except under the certain circumstances provided in the said section itself. Both the courts below denied bail to the petitioner, while taking into consideration that he would be in a position to influence the minor prosecutrix. This court is informed that the minor prosecutrix has since been examined. Under these circumstances, this court is of the considered view that no ground is made out, at the present moment, to deny bail to the juvenile-petitioner. Accordingly, at this stage, without commenting on the merits of the case and keeping in view the fact that the statement of the young prosecutrix has since been recorded, the instant criminal revision is allowed and the petitioner herein is ordered to be released on bail on execution of adequate personal bond and surety bond to the satisfaction of the concerned Principal Magistrate, Juvenile Justice Board/Duty Magistrate. While disposing of this criminal revision, as a preventive measure, this court thinks it appropriate to direct the Principal Magistrate, Juvenile Justice Board, to have an undertaking from the parents of the petitioner-juvenile that the petitioner-juvenile would not in any manner try to contact with the minor prosecutrix either directly or indirectly, or he would not harass or threat or intimidate etc. the minor prosecutrix in any manner whatsoever. In case, the petitioner-juvenile would do so, the complainant shall be at liberty to approach this court for cancellation of his bail.

**July 24, 2018**

*vijay saini*

**(JAISHREE THAKUR)  
JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No