

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

CRR-2733-2018

Date of Decision:30.10.2018

Atul

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present : Mr. A.P.S. Deol, Sr. Advocate with
Mr. H.S. Deol, Advocate
fore the petitioner.

Mr. Neeraj Poswal, A.A.G. Haryana.

Counsel for the complainant.

P.B. BAJANTHRI J. (Oral)

Petitioner has sought for the following relief:

“It is therefore respectfully prayed that this revision petition may kindly be allowed and while setting aside the orders of both the court below, the petitioner who is juvenile-in-conflict with law may kindly be allowed bail in case FIR No.693 dated 1.11.2016 u/s 302, 307, 323, 324, 452, 506 r/w 34 IPC P.s. Samalkha District Panipat during the pendency of trial.”

2. Learned counsel for the petitioner submitted that petitioner had applied for bail before Principal Magistrate Juvenile Justice Board, Panipat in FIR No.693 dated 1.11.2016 whereby petitioner's application has been rejected on 22.5.2018. There was a dispute relating to declare the petitioner as juvenile or not which has attained finality before this Court in CRR-2352-2017 on 26.9.2018 holding that petitioner is a juvenile. Pendency of CRR-2352-2017 has been taken note of by the Principal Magistrate Juvenile Justice Board, Panipat, while passing order dated 22.5.2018. Learned counsel for the petitioner submitted that petitioner is in custody since 4.11.2016. The maximum punishment under the Juvenile Justice Act is three years. It was also contended that role of the petitioner is limited to the extent

that he catch hold the deceased whereas his brother inflicted injury on the deceased. Petitioner is stated to be persuing MBBS course as on the date of alleged incident. During the intervening period from the date of arrest i.e. 4.11.2016 to this day his studies has been affected. All these reasons are required to be taken into consideration read with the proviso to Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2000 (for short "Juvenile Justice Act").

3. Per contra, learned counsel for the respondent-State as well as learned counsel for the complainant submitted that petitioner's family members are involved in the alleged incident with reference to FIR. Some of the family members are behind the bar even to this day. Therefore, provision to Section 12 of the Juvenile Justice Act is not attracted. It was also submitted that having regard to the seriousness of the allegation against the petitioner and members of his family, petitioner is not entitled to bail. There is no ground to interfere with the order dated 22.5.2018 passed by the Principal Magistrate Juvenile Justice Board.

4. Heard learned counsel for the parties.

5. Perusal of the record, it is evident that petitioner is in custody since 4.11.2016. Maximum punishment could be imposed under the Juvenile Justice Act would be three years. Moreover, role of the petitioner is only to the extent of catch hold of the deceased. In other words, petitioner has helped his brother to inflict injuries on the deceased. That apart petitioner is persuing MBBS course which is discontinued since 4.11.2016 due to his arrest. Proviso to Section 12 of the Juvenile Justice Act is required to be taken into consideration having regard to the fact that petitioner is a juvenile. He is doing technical course that too on medical

side. Therefore, one cannot draw inference that proviso to Section 12 of the Juvenile Justice Act would be hurdle.

6. Accordingly, revision petition is allowed and order dated 22.5.2018 passed by the Principal Magistrate Juvenile Justice Board is set aside. Petitioner-Atul is ordered to be released on bail on his furnishing requisite bail/surety bonds to the entire satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate/Principal Magistrate Juvenile Justice Board.

7. Petitioner shall not in any way indulge in any criminal activities and he shall also not influence the witnesses or otherwise interfere with the fair trial.

30.10.2018
rajeev

(P.B. Bajanthri)
Judge

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**