

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

237

**CRR No.3973 of 2018.
Date of Decision: 13.12.2018.**

Tarun alias Jhundi

....Petitioner.

Versus

State of Haryana

....Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Upender Prasher, Advocate for the petitioner.

Mr. D.K. Mittal, Deputy Advocate General, Haryana.

Shekher Dhawan, J.

Present revision petition is against the judgment dated 21.11.2018 whereby learned Additional Sessions Judge, Ambala, dismissed the appeal against the order 17.10.2018 passed by learned Principal Magistrate, Juvenile Justice Board, Ambala, dismissing the bail application of the revisionist, a juvenile in conflict with law.

Facts relevant for the purpose of decision of this revision; that petitioner Tarun alias Jhundi alongwith two more juveniles, Mayank Gupta and Abhishek alias Machchar and one accused Anil were facing trial in case bearing FIR No.238 dated 08.08.2018 under Section 302 read with Section 34 of the Indian Penal Code, registered at Police Station GRP, Ambala Cantt.

Learned counsel representing the petitioner contended that present delinquent allegedly caused injury with *danda*, but in fact, as per M.L.R., there was no *danda* blow on the body of injured/deceased and the version is not believable as such. Moreso, learned Additional Sessions Judge, Ambala, had accepted the appeal of similarly placed juveniles Mayank Gupta and Abhishek alias Machchar and they were ordered to be released on bail vide judgment dated 22.10.2018.

Learned State counsel, while opposing the revision petition contended that the petitioner is involved in one more case under S.C./S.T. Act and on that ground only, learned Additional Sessions Judge, Ambala had dismissed the appeal of the petitioner. As such, the present revision petition deserves to be dismissed

While arguing on the above point, learned counsel representing the petitioner contended that even the said case is not maintainable because petitioner herein also belongs to S.C./S.T. category and that trial is still going on, but at any rate, looking the facts in entirety that the petitioner was attributed *danda* blow and there being no injury of *danda* on the body of injured. Deceased Rahul had died and the cause of death of Rahul is because of knife blow which is attributed to other accused of the case. The Petitioner herein is in custody since 10.08.2018. However, all these facts have not been considered by learned Additional Sessions Judge, Ambala while dismissing the appeal.

Having considered all these facts that the petitioner, who is a juvenile and below the age of 18 years, is in custody since 10.08.2018, no

useful purpose would be served by detaining the petitioner behind the bar any more, the petitioner is entitled to be released on bail.

Resultantly, the present revision petition is allowed and the order dated 17.10.2018 passed by learned Principal Magistrate, Juvenile Justice Board, Ambala and the judgment dated 21.11.2018 passed by learned Additional Sessions Judge, Ambala are set-aside. The petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of Chief Judicial Magistrate/Principal Magistrate, Juvenile Justice Board, Ambala.

(SHEKHER DHAWAN)
JUDGE

13.12.2018

jitender

Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No