

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-8600-2019

Date of decision: 01.03.2019

Manish @ Mannu

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Kamal Chaudhary, Advocate for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

RAMENDRA JAIN, J. (ORAL)

Through this petition under Section 439 Cr.P.C., prayer has been made for grant of regular bail to the petitioner in case FIR No. 141 dated 01.07.2018 registered under Sections 148, 149, 302 and 506 IPC at Police Station Tigaon, District Faridabad.

At the outset, learned State counsel submits that the instant petition is not maintainable, in view of the fact that petitioner is a juvenile and as per provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short-'the Act'), he has first to apply for the relief which he has sought in this petition, before the Principal Magistrate, Juvenile Justice Board, Faridabad. In support of his contention, he draws attention of this Court to provisions of Section 12 of the Act, which reads as follows:-

“12. Bail to a person who is apparently a child alleged to be in conflict with law.—(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 (2 of 1974) 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 sub-section (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 sub-section (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."

However, learned counsel for the petitioner refuting the above submission of learned State counsel submits that the instant petition is very much maintainable, inasmuch as, as on date, the petitioner is in Observation Home, Faridabad.

Since, the petitioner being juvenile is kept in observation home

and not in jail and also the fact that provisions of Section 12 of the Act, debar the petitioner to approach directly this Court, therefore, the instant petition being not maintainable is dismissed.

March 01, 2019

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No