

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

**CRR-1068-2019 (O&M)
Date of decision: 09.05.2019**

Amritpal @ Amrit

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Veneet Sharma, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this revision petition is for setting aside the order dated 02.04.2019 passed by the Principal Magistrate, Juvenile Justice Board, Amritsar, dismissing the application for bail as well as the order dated 25.04.2019, vide which the appeal filed by the petitioner was dismissed by the appellate Court.

Brief facts of the case are that FIR No.0054 dated 27.03.2019 under Sections 377/34 of the Indian Penal Code (for short 'IPC') and Sections 4 & 6 of the Protection of Children from Sexual Offence Act, 2012 (for short 'POCSO Act') was got registered by the complainant, with the allegations that his son, who is aged about 12 years, informed him that on 24.03.2019, at about 3 o'clock, he had gone for catching a kite on the top of Sharma Guest House,

where petitioner Amritpal @ Amrit came there behind him and forcibly took off his pant and committed the obscene act. He further informed that co-accused Abhisekh Kumar @ Abbu, who is working as Receptionist in the Sharma Guest House, has done obscene act with him twice before his exams, in a room of the guest house and the accused have threatened him with dire consequences. FIR was registered on 27.03.2019 and thereafter, the victim was medico-legally examined on the same day and it was reported that it is a case of alleged history of sodomy on three occasions within last four weeks by two persons and the last incident was three days ago and there was history of washing and changing of clothes.

Learned counsel for the petitioner submits that the petitioner is a juvenile and is first offender and primarily, the Courts below have dismissed his bail application on the premise that if the petitioner is released on bail, he would again come in association with other persons, which would expose him to mental danger, as similar age group of children will not accept his company. It is further argued that even the appellate Court, though has opined that there is no such evidence on record that co-aged children of the petitioner will not accept him, however, the petitioner being juvenile will feel encouraged, as it may expose to mental danger.

Learned counsel for the petitioner, on instructions from father of the petitioner, who is present in the Court, submits that father and mother of the petitioner are ready to furnish an undertaking that the petitioner will not stay in Amritsar and they undertake to admit him in Class XII in a school at Gurdaspur, so that he may not come in contact with the victim again and will stay away from the place of occurrence/residence of the victim.

Learned counsel for the petitioner further submits that the petitioner himself is of tender age and he has passed his 11th class and in case he is not released on bail, he will lose his academic year and will not be in a position to take admission in Class XII.

Learned State counsel, on instructions from ASI Narinder Singh, has opposed the prayer on the ground that there is every possibility that the petitioner may again exploit the victim, however, it is not disputed that the petitioner is in judicial custody since 27.03.2019 and is not involved in any other case and his date of birth is 01.05.2001.

After hearing learned counsel for the parties, I deem it appropriate to grant bail to the petitioner subject to furnishing bail and surety bonds on the following conditions: -

- (a) *The parents of the petitioner will furnish an undertaking before the trial Court/Juvenile Justice Board that the petitioner will not stay at Amritsar nor will visit the place of occurrence/place of residence of the victim.*
- (b) *They will not admit the petitioner in any school at Amritsar and will admit him in a school at Gurdaspur as stated by his father in Court.*
- (c) *The petitioner or any other family member will not influence the victim nor deter him from making a statement in the Court.*
- (d) *Any other condition, which the trial Court/Juvenile Justice Board may deem appropriate.*

In view of the above, present petition is disposed of. The order dated 02.04.2019 passed by the Principal Magistrate, Juvenile Justice Board,

Amritsar, dismissing the application for bail and the order dated 25.04.2019, vide which the appeal filed by the petitioner was dismissed by the appellate Court, are hereby set aside and the petitioner is directed to be released on bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Juvenile Justice Board.

09.05.2019
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No