

241.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1627-2019

Date of decision:18.07.2019

BITTU SINGH @ AMANPREET SINGH

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Nitin Rathour, Advocate,
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition impugning the judgment dated 28.05.2019 passed by learned Additional Sessions Judge, Amritsar, whereby his appeal against the order dated 15.02.2019 passed by learned Principal Magistrate, Juvenile Justice Board, Amritsar, was dismissed.

Vide order dated 15.02.2019, learned Juvenile Justice Board has dismissed the bail application of the petitioner.

An FIR No.76 dated 25.05.2018 under Section 376 IPC was registered against the petitioner at Police Station Ajnala, Amritsar, with the allegations that on 23.05.2018, he had come to the house of the prosecutrix and told her that whatever time they spent together was fine, but now he is not going to marry her, as he has been engaged with some other girl and getting married. The petitioner established physical relations with the

prosecutrix for the last two years and allured her for getting married. However, while returning, the petitioner gave her poison, which she consumed under anger on 24.05.2018. Though she was taken to a medical store by her family where she was saved, however, on 12.06.2018, she died after consuming some poisonous substance.

Initially the FIR was registered under Section 376 IPC, but on 12.06.2018 when the prosecutrix died, the offence under Section 306 IPC was also added. Since the prosecutrix was less than 18 years of age at the time of occurrence, the offences under Sections 4 & 6 of POCSO Act, were also added in the case. The petitioner was arrested in the FIR on 06.08.2018.

Counsel for the petitioner has argued that vide order dated 15.02.2019, the application filed by the petitioner to release him on bail, was dismissed. However, the petitioner filed an appeal against the order dated 15.02.2019 alongwith an application under Section 5 of Limitations Act, seeking condonation of delay of 18 days in filing the appeal on the ground that the applicant was in custody and a poor person. Even his father is illiterate and poor man. Therefore, he could not prefer the appeal within the time prescribed under law because of illiteracy and poverty of his father.

Learned State counsel, on instructions from ASI Avtar Singh, states that Section 52 of Juvenile Justice (Care & Protection of Children) Act, 2000 prescribes limitation for filing an appeal. But as the appeal was filed beyond time so prescribed and there was no sufficient cause for the petitioner to seek condonation of delay, the appeal was rightly dismissed by the court below. Thus, the present revision petition deserves to be dismissed.

I have heard counsel for the parties.

No doubt, the appeal filed by the petitioner against the order dated 15.02.2019 was delayed by 18 days, but considering the fact that the petitioner, who was in custody, and his father, who is illiterate and poor man, and therefore, could not prefer the appeal, this Court finds sufficient cause to condone the delay of 18 days in filing the appeal. The appeal deserves to be decided on merits instead of dismissal on the ground of limitation.

Accordingly, the present revision petition is accepted and the order dated 28.05.2019 is set aside. The case is remanded back to the Additional Sessions Judge, Amritsar with a direction to pass order in the appeal filed by the petitioner on merits instead of dismissal on the ground of limitation.

Disposed of.

(HARI PAL VERMA)
JUDGE

18.07.2019
sanjeev

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