

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

Criminal Misc. No.M-33097 of 2019(O&M)

Date of Decision: November 20, 2019

Sahil

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.R.S.Mamli, Advocate
for the petitioner.

Mr.Ashish Sanghi, DAG, Haryana.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of bail in case FIR No.498 dated 05.12.2018 under Sections 302/34 IPC and Section 25 of the Arms Act, Police Station City Tohana, District Fatehabad.

The allegation in the FIR is that the petitioner in conspiracy with co-accused Ram Kumar (his father) had committed the murder of Raj Kumar, husband of the complainant with a gun shot on 05.10.2018. There was a dispute between the deceased and the father of the petitioner regarding poultry farm which was aggravated by bursting of crackers on Diwali night by the petitioner which disturbed the buffalo of the complainant.

Investigation in the case is complete and challan has been presented before the Juvenile Justice Board on 02.03.2019 and trial commenced. Out of the 16 witnesses cited, 04 have been examined.

The date of birth of the petitioner is 02.03.2003. On the date of

the incident the petitioner was admittedly a juvenile. He was arrested on 07.12.2018. His application for bail was dismissed by the learned Principal Magistrate, Juvenile Justice Board, Faridabad vide order dated 18.03.2019 with the observation that he had committed the offence of murder without any instigation. The offence is of one of moral degradation and his release would defeat the ends of justice. It would also expose him to moral, physical and psychological danger.

The learned Additional Sessions Judge also declined him bail vide order dated 08.07.2019 with the observation that he is the main accused and if he is released on bail, he would flee from trial and that his release would expose him to moral, physical and psychological danger.

Section 12 of the Juvenile Justice Board (Care and Protection) Act, 2015 provides that the moment a juvenile is arrested or detained or brought before the Board, ordinarily such juvenile should be released on bail, with or without sureties or should be placed under the supervision of a Probation Officer or under the care of fit institution or fit person and if he is not released, then he will be kept in the Observation Home in the prescribed manner. Thus, Section 12 of the Act requires that ordinarily, the juvenile be granted bail, except that there are reasonable grounds believing that release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

In the present case, the Courts below have rejected the bail application of the petitioner simply opining that in case of release, the

petitioner will be involved in moral as well as physical or psychological danger. No reference to any material has been made to arrive at such conclusion.

Investigation in the case is complete and challan has been presented before the Juvenile Justice Board on 02.03.2019. Out of the 16 witnesses cited, 04 have been examined. The petitioner is in custody since 07.12.2018.

Considering the facts and circumstances it appears to be fit case for granting bail to the petitioner. Accordingly, this petition is allowed.

The petitioner is directed to be released on bail on furnishing of bail bonds and sureties by his mother Kusum Kumari to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Fatehabad/Duty Magistrate concerned. The mother of the petitioner shall also file affidavit that during trial the petitioner will remain in her custody and not be permitted to associate with any criminal or anti-social elements.

November 20, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No