

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

CRR No. 2186 of 2019 (O&M)

Date of decision: - 09.12.2019

SUSHANK

...Petitioner

Versus

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Ashit Malik, Advocate for the petitioner.

Mr. Nischal Mann, DAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The present revision petition has been filed by petitioner-Sushank, challenging the impugned order dated 11.12.2018, passed by the learned Principal Magistrate, Juvenile Justice Board, Palwal, vide which his bail application was dismissed and also challenging the judgment dated 13.05.2019 passed by learned Additional Sessions Judge, Palwal, vide which his appeal was also dismissed, in case FIR No. 461 dated 05.09.2018 registered under Sections 302 and 34 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, at City Palwal, District Palwal.

Hence, the present revision petition has been filed.

Learned counsel for the petitioner states that the bail application has been declined by the learned Principal Magistrate,

Juvenile Justice Board, Palwal, observing that if the petitioner is admitted to bail, then this would bring him to associate with other criminals or expose him to moral or physical or social danger or would defeat the end of justice.

Learned counsel for the petitioner also pointed out that the learned Additional Sessions Judge, Palwal, declined the appeal on the ground that the petitioner-accused played an active role in causing injuries to the deceased, which proved fatal. He further states that the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'Act') have not been properly appreciated by the learned Courts below. He further contended that the completion of trial will take long time, so the petitioner may be granted regular bail. In support of his contentions, the learned counsel for the petitioner has relied upon the judgments passed by this Court in case titled as '**Ravi Vs. State of Haryana, 2017(4) Law Herald 3511, 'Neha vs. State of Punjab' 2018(2) R.C.R.(Criminal) 226 and 'Happy Vs. State of Haryana' 2019(1) R.C.R. (Criminal) 526.**

On the instructions from ASI Sanjay Kumar, learned State counsel states that out of 24 prosecution witnesses, only 2 witnesses have been examined.

Heard.

From the record, I find that under Section 12 of the Act, the Court is not to see the nature and gravity of the offence. The fact that FIR is under Section 302 IPC, is no ground to reject the bail. Secondly, the Magistrate has not given any reasoning that if the accused is released on bail, then he will come into association with other criminals and how

it would defeat the ends of justice. In these circumstances, if the bail is not granted to the juvenile, then the very purpose of incorporating Section 12 of the Act would be frustrated.

In view of the above, I find merit in the present revision petition and the same is allowed. The impugned order dated 11.12.2018 passed by the learned Principal Magistrate, Juvenile Justice Board, Palwal, and the judgment dated 13.05.2019 passed by learned Additional Sessions Judge, Palwal, are set aside. Accordingly, the petitioner-Sushank is ordered to be released on bail to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Palwal.

(HARNARESH SINGH GILL)
JUDGE

09.12.2019

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No.
Yes/No