

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.2708-2019

Date of Decision: 05.11.2019

Nikhil

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Vinod Bhardwaj, Advocate for the petitioner.

Mr. Ashok Muthreja, DAG Haryana.

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HARINDER SINGH SIDHU, J.

This criminal revision has been filed for quashing the judgment and order dated 27.09.2019 passed by Additional Sessions Judge, Karnal and the order dated 13.08.2019 passed by Principal Magistrate Juvenile Justice Board, Karnal, whereby, bail application of the petitioner has been dismissed.

The allegations in the FIR against the petitioner lodged on the complaint of Rakesh Kumar were that his son Samir aged about 8 years was studying in 3rd Class in V.P. International School, Karnal. He used to go to a school bus from Ramnagar. The petitioner and some other boys namely Sahil, Mohit also went to the school by the same bus. On the way to the school these three boys forcibly performed sexual acts with his son on the back seat of the bus. They also indulged in unnatural sex with his son in the bathroom of the school.

The Juvenile Justice Board while declining bail to the petitioner opined that since the petitioner and the victim were studying in the same

school, therefore, releasing him on bail would cause prejudice to the inquiry of the case and that it was in their best interest if they were kept in the precincts of Observation Home, Ambala. The Ld. Additional Sessions Judge dismissed the appeal by endorsing the findings of the Juvenile Justice Board by holding that releasing him will involve him in moral as well as physical or 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 prescribe 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 and that as the petitioner and the victim were studying in the same school so releasing him on bail would bring him in contact with the victim, thus causing prejudice to the inquiry.

Learned counsel for the petitioner has stated that while deposing before the Court as PW3, the complainant has turned hostile and not identified the petitioner and the others named in the complaint as being the persons who had indulged in illegal sexual acts with his son. The victim appearing as PW6 has also not identified the petitioner and others named in the FIR.

In view of this the main reason for declining bail that the victim and the petitioner were studying in the same school and his release on bail would cause prejudice to the enquiry will also not survive. Ld. Counsel for the petitioner states that the petitioner is not involved in any other case.

Considering the facts and circumstances it appears to be fit case for granting bail to the petitioner. Accordingly, the revision is allowed. The impugned orders are set aside.

The petitioner is directed to be released on bail on furnishing of bail bonds and sureties by his father and natural guardian Satish Gujjar to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Karnal. The father of the petitioner shall also file affidavit that during trial the petitioner will remain in his custody.

November 05, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No