

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

CRR-104-2020(O&M)

Date of decision:-13.2.2020

Saikul (minor) through natural guardian real maternal uncle Aash Mohd.

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Saurav Bhatia, Advocate
for the petitioner.

Ms.Harpreet Kaur, AAG, Haryana.

Mr.D.P.S. Randhawa, Advocate and
Mr.Kamaldeep Sehra, Advocate
for the complainant.

H.S. MADAAN, J.

Briefly stated, the facts of the case are that FIR No.148 dated 20.7.2019 for the offences under Sections 148, 149, 323, 342, 506 IPC was registered on the basis of statement of complainant Kundan son of Shrichand, resident of village Udaka, aged about 54 years, who interalia stated that on 15.7.2019 a quarrel had taken place in their village between Jamshed son of Memraz and Akhtar son of Rustam; his nephew Naveen son of Mahavir was going to Sohana from the village and Jamshed asked

him for a lift and he had come to Sohana with Naveen; Naveen had gone for his work; Shamshed had filed a complaint with Police Station Rozka Meo regarding the quarrel; on 19.7.2019, a Panchayat had been convened in the village to resolve the dispute between Jamshed and Akhtar, where a settlement was arrived at between them and the persons, who had assembled were started returning to their respective homes; Naveen was also going back to his house; the complainant was accompanying him; on the way Maksudan wife and Sarjina daughter of Akhtar picked up bricks from the roof of the house and threw the same on Naveen hitting him on head stating that they would teach a lesson to him for taking favour; after being hit in the head, Naveen suffered a serious injury; in the meanwhile, Jekam son of Nashrudin dragged Naveen inside the house and bolted the door from inside; thereafter Akhtar, his wife, daughter and son Sajid gave beatings to Naveen in the house; when the complainant went to his rescue then Sajid, Akhtar, Jekam, Sarjina and Maksudan hit him with stones and cricket bat; in the meanwhile, Ram Avtar – brother and Satish – son along with Nitesh son of Ram Avtar and Prem wife of Ved Parkash came there, then Ruksar, Saikul, Sarjina, Maksudan, Sajid, Akhtar had attacked them with lathies, dandas, cricket bat and stones; Naveen had received serious injuries; he was taken to Artimas Hospital, Gurugram for treatment; injured were admitted in Government Hospital, Nuh for medical treatment from where they were referred to Nalhar Hospital.

Naveen had succumbed to the injuries suffered by him, therefore offence under Section 302 IPC was added. Accused were arrested in this case, which included accused Saikul minor aged about 12

years. An application was moved before Principal Magistrate, Juvenile Justice Board, Nuh for release of Saikul, minor, a juvenile in conflict with law on bail. However, that application was dismissed vide order dated 31.10.2019.

The juvenile in conflict with law had then filed an appeal against that order before the Court of Sessions, Nuh, which was assigned to Additional Sessions Judge, Nuh, who vide judgment dated 17.12.2019 upheld the order passed by Principal Magistrate, Juvenile Justice Board, Nuh and dismissed the appeal.

As such the petitioner has knocked at the door of this Court by way of filing the present revision petition.

I have heard learned counsel for the parties besides going through the record.

The allegations against the revisionist are very grave and serious that he along with co-accused had committed murder of Naveen. Though he is a teen ager but the criminal acts for which he had allegedly been booked are to be taken with all the seriousness. Learned Additional Sessions Judge, Nuh considering all the facts and circumstances of the case had declined to give concession of bail to the revisionist vide impugned judgment dated 17.12.2019. The operative part of the said judgment is contained in para No.7, which for ready reference is being reproduced as under:-

7. I have carefully examined the record. The offences invoked inter alia under Section 302 IPC are of utmost gravity and the appellant has been attributed specific role in

the occurrence and ascribed injuries on the person of deceased and intervenors trying to rescue the deceased, which is essentially part of the same transaction. In such backdrop, the social investigation report filed by Legal-cum-Probation Officer, Juvenile Justice Board, Nuh has been perused. In the report, it has been stated that there was a lack of moral values in the family of appellant and the involvement of appellant in the present case was shown to be on account of influence of his family. Further, it has been submitted that the close family members of appellant i.e. his father, mother and siblings are in judicial custody in the present case. Thus, it is clear that the release of appellant on bail is likely to put him in the company of his extended family members and thus expose him to moral as well as psychological danger within the meaning of proviso to Section 12(1) of the Act. Further, the family members of deceased Naveen being residents of the same village, the danger of retribution and physical harm to appellant appears to be real. Learned Principal Magistrate has correctly observed in the impugned order that it is for the welfare of the appellant that he be kept safely in preventive detention at Observation Home and releasing him on bail is likely to expose him to moral, psychological and physical danger. Judgments in the case of Atul Kumar and another Vs. State of Haryana, Sandeep @ Sipi Vs. State of Punjab,

Karamdeep Kaur @ Karamjit Kaur Vs. State of Punjab, Pankaj Vs. State of Haryana, Najmuddin Vs. State of Haryana, supra have no application to the facts of the present case and do not further the case of appellant in any manner.

The orders passed by the Courts below are detailed and well reasoned. It does not come out to suffer from any illegality or infirmity much less apparent on the face of those orders. The orders are certainly not perverse or passed in an arbitrary manner. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned orders by way of exercising the revisional jurisdiction.

As regards the authorities *Ankur (Minor) Versus State of U.P. and another, 2018(8) ADJ 240, Ravi Versus State of Haryana, 2017(4) Law Herald 3511, Gopinath Ghosh Versus State of West Bengal, 1984(1) RCR(Criminal) 444, Bittu Versus State of Haryana, 2015(2) RCR(Criminal) 316 and Sandeep @ Sipi Versus State of Punjab, 2016(3) RCR(Criminal) 776* referred to by learned counsel for the petitioner, those do not find application to the present case due to different facts and circumstances and the context in which such observations have been made.

On the other hand, learned counsel for the complainant has also referred to authority *Ajit Versus State of Haryana, 2013(4) RCR(Criminal) 476.*

There is no illegality or infirmity in the impugned orders passed by the Court below. The same are upheld whereas the criminal revision is found to be without any merit and the same is dismissed accordingly.

13.2.2020

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : **Yes/No**

Whether reportable : **Yes/No**