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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.665 of 2020

Date of decision : 27.07.2020

Raju @ Rinku Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: Hon'ble Mr. Justice G.S. Sandhwalia

Present:- Mr. B.S.Jatana, Advocate for the petitioner

Ms. Monika Chhibher Sharma, Sr. DAG, Punjab.

(The proceedings have been conducted through Video conferencing as per instructions.)

G.S. Sandhwalia, J. (Oral)

In the present Criminal Revision the petitioner through his mother challenges the order dated 16.12.2019 passed by the Principal Magistrate, Juvenile Justice Board, Mansa declining him the benefit of bail in FIR No.200 dated 24.11.2019 under Section 302 and 34 IPC registered at Police Station City 1, Mansa, District Mansa.

Challenge has also been raised to the order dated 7.2.2020 passed by the Children's Court (Sessions Judge), Mansa whereby appeal filed by the petitioner against the order dated 16.12.2019 as such was dismissed.

The principal reasoning given by the Courts below is that if the petitioner as such is released on bail he would be exposed to physical danger at the hands of the family members of the person murdered and would defeat the ends of justice from the point of view of juvenile/petitioner. The Court below basically has relied upon the social background report which had been furnished by the Child Welfare Police Officer wherein it

had been observed that the life of the child in conflict with law is in danger if he is set free.

Counsel for the petitioner has submitted that the date of birth of the petitioner is 17.10.2003 and he was arrested and in judicial custody since 24.11.2019 when the FIR in question was lodged. There is no other case against him and he has relied upon the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 to submit that only in exceptional circumstances the bail is to be denied. The age of the applicant was 16 years 1 month and 8 days on the date of registration of the FIR and he is of tender age. It is further submitted that the petitioner has been kept in Child Observation Home, Faridkot and is entitled to be released on bail as the 2015 Act is a beneficial piece of legislation.

Counsel for the State on the other hand has justified the orders of the Courts below and submitted that there would be a threat as such to the life of the petitioner if he is released on bail and therefore, impugned orders are not liable to be interfered with.

A perusal of the FIR would go on to show that the FIR was lodged by Surat Singh father of the deceased Jaspreet Singh @ Ghachra. The dispute had arisen on account of the fact that the brother of the deceased had performed love marriage with Raju Kaur from whom a child was born. The family of Raju Kaur could not reconcile to this fact and her brother namely Jashan Singh, cousin Gurjeet Singh @ Jhagoon had been threatening the deceased and other family members. The petitioner as such had called the deceased at their instance on the pretext that they want to discuss something about the said relationship and thereafter he had gone missing on 23.11.2019 in the evening time at about 6.O Clock. In the morning of 24.11.2019 Gurjeet Singh and Jashan Singh had met the complainant who had told him that they had murdered his son by setting

him on fire. Thereafter by searching the place where the deceased had last been seen he was found dead and half burnt and had been tied with a cloth on his mouth and on his arms. Resultantly three persons had been named as the accused which included the petitioner.

The exception under Section 12 of the 2015 Act provides that a juvenile is not to be released if:-

- “(i) If there appear reasonable ground for believing that the release of the juvenile is likely to bring him into association with any known criminal;
- (ii) The release will expose the juvenile to moral, physical or psychological danger; and
- (iii) his release would defeat the ends of justice.”

Thus, it is apparent that the reasoning of the Courts below is on account of the fact that juvenile would be exposed to physical danger since the dispute arose out of honour killing as such and the dispute is interse the families.

Admittedly, the petitioner is of tender age and on account of the threat from the complainant side, it would not be fair as such that he should be continued to be detained in the Juvenile Home on this aspect. It is settled principle that bail to the juvenile is a rule and there is no criminal background as it has not been recorded that there is any criminal antecedents of the petitioner or his parents have also been involved in criminal activities. Thus, it is in the interest of justice that the petitioner be kept in the company of his parents as he is of tender age. If he is not released on bail he would only be exposed to other children who have also been detained on account of having committed various offences. The ends of justice would not be served if the petitioner is kept in Juvenile Home during the pendency of trial. The possibility of the petitioner being misguided by the other accused in calling the deceased cannot be discounted.

If there is any danger as such to the life of the juvenile, it is for his family as such to resort to their means to approach the State to protect the applicant from the threat perception which he is being apprehended and it would only be in the interest of justice he stays under the supervision of his parents rather than the Juvenile Home.

Accordingly, the present revision petition is allowed. The impugned orders dated 16.12.2019 and 7.2.2020 passed by the Courts below are set aside. The petitioner is ordered to be released on bail during the pendency of trial to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Mansa on furnishing bail bonds and surety bonds by the natural guardian/near relatives.

27.07.2020
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(G.S. Sandhawalia)
Judge