

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

**CRM-M No.14103 of 2020 (O&M)
Date of Decision.19.06.2020
(Heard through VC)**

Amit Grover

...Petitioner

Vs

U.T. of Chandigarh

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. PIP Singh, Advocate
for the petitioner.

Mr. Lalit Kumar Gupta, APP, U.T., Chandigarh.

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JAISHREE THAKUR J. (ORAL)

This is a petition that has been filed for grant of regular bail to the petitioner in case FIR No.272 dated 04.09.2019 registered under Sections 302, 307, 34 IPC and Section 25 of Arms Act, 1959 at Police Station Sector 17, Chandigarh.

The case of the petitioner is that he was arrested in aforementioned FIR on 16.09.2019. He moved an application for grant of bail before the Additional Sessions Judge (Duty), Chandigarh but the same was dismissed.

Learned counsel for the petitioner submits that the bail application of the petitioner has been dismissed by the Court below only on the ground of presumption that in case, the juvenile is released on bail, he may be exposed to moral and psychological danger and his release would defeat the ends of justice, whereas, no such finding was recorded as to how he will come in contact with criminals and how he will be exposed to moral, physical or psychological danger, which would defeat the ends of justice.

Learned counsel further would rely upon Section 12 of the Juvenile Justice Act to contend that a child in conflict with law cannot be denied bail. He would further argue that the petitioner has been falsely implicated in the present case whereas he has nothing to do with the allegations as levelled in the FIR. It is further submitted that the allegations made in the FIR against the petitioner are vague, while further submitting that the petitioner is not a previous convict and he is not associated in any kind of un-social or criminal activities.

Learned counsel for the petitioner has also relied upon the judgment of this Court in **Balkar Singh Vs. State of Punjab 2005(1) RCR (Criminal) 576** , **Hardip Singh Vs. State of Punjab 2002 (1) RCR (Criminal) 401** and **Sandeep @ Sipi Vs. State of Punjab 2016 (3) RCR (Criminal) 776** in support of his arguments.

Learned counsel for the respondent-State opposes grant of bail to the petitioner on the ground of heinousness and seriousness of offence and also because of the fact that the victim was minor at the time of occurrence.

I have heard learned counsel for the parties and have also perused the impugned order as well as the allegations levelled in the FIR.

Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (here-in-after referred to as 'Act') is relevant in the present controversy, which is reproduced as under :-

“12. Bail of juvenile.-

(1)When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall,

notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit institution of fit person but he shall not be so released if there appear reasonable grounds for believing that the 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.

(2)When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3)When such person is not released on bail under sub section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.”

From the bare reading of the provisions of Section 12 of the Act, it appears that the intention of the legislature is to grant bail to the juvenile irrespective of the nature or gravity of the offence, alleged to have been committed by him and the same can be declined only in case where reasonable grounds are there for believing that the release is likely to bring him into the association of any known criminal or expose him to moral,

physical or psychological danger or that his release would defeat the ends of justice. Meaning thereby, as per aforesaid provision, a juvenile can be denied the concession of bail, if any of the three contingencies specified under Section 12(1) of the Act is available.

In the present case, while declining the bail application, the relevant provision has not been considered by the Court below as in accordance with Section 12 of the Act, the juvenile is entitled to bail as a matter of right unless the case falls in the exceptions carved out in the provision itself, but nothing was available on record to show that any of the three exceptions specified under Section 12(1) of the Act was existing.

Similar view was observed in cases *Manoj Singh vs State of Rajasthan 2004(2) RCC 995, Lal Chand v.State of Rajasthan 2006(1) RCC 167, Prakash v. State of Rajasthan 2006(2) RCR (Criminal) 530 and Udaibhan Singh alias Bablu Singh v. State of Rajasthan 2005(4) Crimes 649.*

Learned counsel for the respondent-State has also not pointed out any material available on record to show that there are reasonable grounds for believing that the petitioner is likely to come into the association of any known criminal if released on bail or his release will expose him to moral, physical or psychological danger. Petitioner is in custody since 16.09.2019 and no purpose will be served, in case, he is kept in custody.

In view of the totality of the facts and circumstances of the case and law position as discussed above, I am of the view that the Court below has not satisfied the requirement of provisions of Section 12(1) of the Act and without having any material on record, the bail application of the

petitioner has been declined.

Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal/surety bond to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case.

(JAISHREE THAKUR)
JUDGE

June 19, 2020
Pankaj*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No