

In the High Court of Punjab and Haryana at Chandigarh

**CRR No. 1025 of 2020
Date of Decision: 09.9.2020**

Amit alias Bhoora

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Arun Singal, Advocate
for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner has preferred this petition being aggrieved of the the order dated 22.6.2020, passed by learned Additional Sessions Judge, Sonipat, vide which the appeal filed by him, against the order dated 21.5.2020 passed by Principal Magistrate, Juvenile Justice Board, Sonapat, dismissing his bail application, was dismissed.

Learned counsel for the petitioner submits that provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act ('Act' for short) has been ignored by the Courts below on the assumptions that the petitioner has the criminal proclivities. It is further submitted that the observations of the Courts below are based on conjectures and surmises and there is nothing on record to show that the parents of the petitioner do not have any control on him. It is also submitted that the petitioner has not been named in the FIR and he has been in the Observation Home since

Notice of motion.

On the asking of the Court, Ramesh Kumar Ambavta, AAG, Haryana accepts notice on behalf of the State. He has pointed out that the petitioner is also involved in two more cases out of which, he is on bail in one case, whereas in the other case, he has been acquitted.

I have heard the learned counsel for the petitioner and the learned State counsel.

In the present case, the FIR has been registered under Section 302 IPC and 25 of the Arms Act. There are allegations of murder of Anup by the petitioner and co-accused. Moreover, the petitioner has also been involved in other criminal cases. The trial Court while dismissing the bail application of the petitioner has held that refusal to bail out a juvenile is, therefore, more in the nature of protective custody rather than penal custody. Both the Courts below have rightly held that keeping in view the nature of allegations, it transpired that the petitioner has criminal proclivities and in case he is released from protective custody, he may again go back to the same environment and expose himself to moral and psychological danger.

The Act is a beneficial legislation intended for reform of the juvenile in conflict with the law. But the law also demands that justice should be done not only to the accused, but also to the accuser. In the light of statutory provision of Section 12 of the Act, bail prayer of the juvenile/revisionist has to be considered on the surrounding facts and circumstances. Mere declaration of being a juvenile, does not entitle a juvenile to be released on bail as a matter of right. [The Act](#) has a solemn purpose to achieve betterment of juvenile offenders but it is not a shelter

home for those juvenile offenders, who have got criminal proclivities and a criminal psychology. It has a reformatory approach but does not completely shun retributive theory. Legislature has preserved larger interest of society even in cases of bail to a juvenile. Therefore, the findings of the Courts below that detention of the juvenile in the Juvenile Home is more suitable and safer than enlarging him on bail, cannot be found fault with.

Keeping in view the above, this Court does not find any infirmity in the impugned orders passed by the Courts below. No ground for interference by this Court is made out.

The petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

September 09, 2020
Gurpreet

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