

CRM-M-21255-2020

Date of decision August 13, 2020

GAGANDEEP

....Petitioner

Versus

STATE OF HARYANA

....Respondent

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. R.S. Bains, Advocate for the petitioner.

Mr. Anmol Malik, DAG, Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

The petitioner prays for bail pending trial in FIR No. 81 dated 23.06.2019 under Sections 302, 120B, 34 IPC and Section 25 of Arms Act registered at Police Station Mohana, District Sonapat.

The petitioner, a child in conflict with law, has been nominated as an accused in the abovementioned FIR. The petitioner's application for bail was rejected by the learned Principal Magistrate, Juvenile Justice Board vide order dated 09.10.2019 and his appeal was also dismissed on 08.06.2020 (Annexure P3).

It is submitted that the petitioner, who is 16 years of age has been falsely implicated in the abovementioned FIR. As per the FIR, the petitioner is not named in the FIR, which was registered on the statement of Manjit i.e. brother of the deceased namely Sanjit. The petitioner is sought to be implicated on the basis of a supplementary statement of the complainant recorded two days after the registration of the FIR besides disclosure statement of the co-accused Sandeep. It is

further contended that even as per supplementary statement of the complainant, the petitioner is not attributed with any active role. He is attributed alalkara i.e. exhorting the other co-accused, whereas in the disclosure statement the petitioner is stated to be not present at the actual spot of the incident, but waiting outside on a motorcycle. Furthermore, no recovery of any kind has been effected from the petitioner. The weapon of offence and the motorcycle allegedly used in the incident, has been recovered from the co-accused. The petitioner, it is submitted, is in custody since 27.06.2019 and no headway is being made in the trial due to outbreak of the pandemic, COVID-19. It is further submitted that there is no reason to deny the concession of bail in terms of Section 12 of the Juvenile Justice Act. It is, thus, prayed that this petition be allowed.

It is clarified at this stage that it was noticed at the outset, that instead of a criminal revision, present petition has been filed under section 439 Cr.P.C. Learned counsel submits that this petition be treated to be a revision petition in the interest of justice. No serious objection is raised thereto.

I have heard learned counsel for the parties.

Learned counsel for the State while opposing this petition on merits, argues that specific allegations have been raised against the petitioner and both the learned courts below have rightly observed that in case the petitioner is enlarged on bail, he may be exposed to moral and psychological danger. It is however verified, on instructions from SI PuranSingh, that the weapon allegedly used to perpetuate the offence, has been recovered from the other co-accused, who is in custody. It is further verified that the petitioner is not involved in any other criminal case. No substantial reason has been brought forth before this court to justify the denial of relief in terms of section 12 of the Juvenile Justice Act.

Due to outbreak of the pandemic, COVID-19, not much progress is being made towards the conclusion of the trial. There are no allegations on behalf of the State that petitioner is likely to abscond or that he is likely to dissuade the witnesses from deposing true facts before the learned trial Court, if released on bail. No useful purpose shall be served by keeping the petitioner incarcerated any longer.

Keeping in view the facts and circumstances noted above but without expressing any opinion on the merits of case, it is considered just and expedient to allow this petition. Consequently, the petitioner be released on bail pending trial subject to his furnishing requisite bail bonds and surety to the satisfaction of the learned trial Court/concerned Duty Magistrate.

It is reiterated that none of the observations made herein above are a reflection on the merits of the case and shall have no bearing on the trial.

August 13, 2020
rts

(Lisa Gill)
Judge

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