

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

CRR-1070-2020(O&M)

Date of decision:-25.8.2020

'A' Minor (name withheld being Child in conflict with law)

...Petitioner

Versus

State of Haryana

...Respondent

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

Present: Mr.Lalit Kumar Yadav, Advocate
for the petitioner.

Mr.Tanuj Sharma, AAG, Haryana.

H.S. MADAAN, J.

Case taken up through video conferencing.

Briefly stated, the facts of the case as per the prosecution version are that on 11.3.2020 Ravinder Kumar, Member Child Helpline, Faridabad along with child (child name not being mentioned to conceal his identity and referred to as '*the victim*') came to Police Station Adarsh Nagar, Balabgarh and presented a written complaint, which was addressed to the Child Welfare Committee, NIT, Bal Bhawan. *Inter alia*, in the said complaint, it had been alleged that an information had been received that victim aged about 17 years had been subjected to wrong acts by about 8 boys since the year 2016. The officials from the Department then contacted the victim and did his counselling. The victim informed that in

the year 2016 while he was present in the street, then Shivam, residing in his neighbourhood called him and took him to his house; Ashu Sharma and Ashish were already there; Ashish asked him to remove the clothes; nevertheless Shivam, Ashish and Ashu Sharma removed his clothes; first of all Shivam put his penis in his back, whereas Ashish and Ashu Sharma put their penis in his mouth; all three of them did wrong acts with the victim turn by turn and prepared a video of such acts; they threatened to kill the victim, if he disclosed the fact to anybody; after two-three days, all three of them again called the victim to their house and did wrong acts with him despite the fact that the victim had told them that he was suffering from Haemophilia disease; they all even informed Nicky, Abhishek, Mannu, Sagar, Tokar and Parveen, residing in their neighbourhood; all of them used to blackmail the victim by calling him to their house turn by turn and do wrong acts with him; they used to blackmail the victim by showing the video film of such acts prepared by them. Although the victim and his family had shifted their residence but the culprits continued sodomising the victim and doing wrong acts with him numerous times.

On the basis of such statement, formal FIR for the offences under Sections 377, 506, 34 IPC and under Section 4 of POCSO Act was registered with Police Station Adarsh Nagar, Balabgarh. After registration of the FIR, the matter was investigated. The culprits including the present petitioner were arrested in this case. The petitioner had moved an application for regular bail before Principal Magistrate, Juvenile Justice Board, Faridabad, However that application was dismissed vide detailed

order dated 24.5.2020. The operative part of the order runs as follows:

*“In the present enquiry, allegations levelled against the applicant/CCL are that he has committed penetrative sexual assault upon victim who is minor. Therefore, from the grave nature of the allegations levelled against the applicant/CCL, it appears that he is very much capable of apprehending what is right and wrong and understands his actions sufficiently and therefore, as a necessary corollary, it would follow that the release of such juveniles would defeat the ends of justice. Reliance can be placed upon **Shimil Kumar Vs. State of Haryana, 2013(4) RCR Criminal page 16** for the said purpose. In the said judgment, Hon'ble High Court has held in judgment para 30 that in cases, where the juvenile has been accused of aggravated offences which shock the conscience of the society, it would be safer to protect him from the collective wrath of the society, on account of retribution such dastardly act may possibly invite. Therefore, in these circumstances in case applicant/CCL is released on bail at this stage then there is an apprehension that he may come in contact with criminals and it shall also defeat the ends of justice. Therefore, there is no ground to allow the bail application in hand and accordingly same stands dismissed.*

5. *However, the above observation of mine shall have no effect on the merits of the present case.*

Feeling aggrieved by the said order, the juvenile/child – in – conflict with law had approached the Court of Sessions filing an appeal, which was assigned to Additional Sessions Judge, Fast Track Special Court, Faridabad, who vide order dated 11.6.2020 dismissed the same. Again the relevant observations in the order are to the following effect:

12. Learned counsel for the applicant/CICL requested to release the applicant on bail in pursuance of Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015.

13. At this stage, it is relevant to reproduce hereunder Section Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015

“12. Bail to a person who is apparently a child alleged to be in conflict with law: (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or 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 person.

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral,

physical or psychological danger or the person's release would defeat the ends of justice and the Board shall record the reasons for denying the bail and circumstances that led to such a decision."

14. The present case does not fall within the ambit of Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 as requested by the learned counsel for the applicant and it will definitely defeat the ends of justice if the CICL is released on bail.

15. Considering all facts and circumstances, this Court is of the opinion that applicant/CICL does not deserve concession of bail. Thus, the present appeal for releasing the applicant/appellant/CICL on bail is dismissed.

Still feeling dissatisfied, the juvenile has knocked at the door of this Court by way of filing the present revision petition, which is being resisted by the State counsel.

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

The impugned orders/judgments passed by the Courts below are detailed and well reasoned. The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse and not otherwise. The impugned orders/judgments do not appear to be suffering

from any illegality or infirmity much less apparent on the face thereof.
The orders are certainly not perverse or passed in an arbitrary manner.
There is no reason to interfere with the impugned orders by way of exercising the revisional jurisdiction.

Finding no merit in the revision petition, the same stands dismissed.

25.8.2020
Brij

(H.S.MADAAN)
JUDGE

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