

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

(Heard through VC)

CRR No.1069 of 2020 (O&M)

Date of Decision: September 02, 2020

Nishant @ Shivam

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Sanjiv Gupta, Advocate
for the petitioner.

Ms. Deepshikha Chauhan, AAG Haryana.

Mr. Munish Mittal, Advocate
for the complainant.

JAISHREE THAKUR, J. (Oral)

This is a criminal revision that has been filed seeking to challenge the order dated 22.06.2020 passed by the Addl. Sessions Judge, Karnal in appeal as well as order dated 12.06.2020 passed by the Principal Magistrate, Juvenile Justice Board, Karnal whereby, the bail has been declined to the petitioner.

Learned counsel for the petitioner contends that the petitioner herein was sent to protective custody in the aforesaid FIR on 10.04.2020. It is submitted that the petitioner has been falsely implicated in the present case. It is argued that investigation is complete, as the challan has already

been presented and conclusion of trial will take sufficient time, therefore, the petitioner is entitled to be enlarged on bail. In support of his arguments, counsel relied upon judgments rendered in ***Ramesh alias Meshu vs. State of Haryana, 2005(1) RCR (Criminal) 65, Sham Lal and another vs. State of Haryana, 2004(4) RCR (Criminal) 368*** and ***Vijay Kumar @ Chhotu (minor) through his mother vs. State of Punjab, 2016(5) RCR (Criminal) 897.***

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigation Officer as well as counsel for the complainant opposes the grant of bail to the petitioner, while submitting that the allegations levelled against the petitioner are serious in nature. However, they do not dispute the fact that investigation is complete and challan has already been presented.

I have heard learned counsel for the parties and have gone through the pleadings of the case and the impugned orders, so passed.

Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act') 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 1 [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.”

A reading of Section 12 of the Act makes it clear that bail ought to be allowed 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 the 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. In other words, a juvenile can be denied the concession of bail, if any of the three essentialities as mentioned under Section 12(1) of the Act is available.

Counsel for the respondent-State as well as counsel for the complainant has failed to point out any of the three essentialities as envisaged under Section 12(1) of the Act in the present case. Since, the trial is likely to take some time and in view of the facts that the petitioner herein has been in protective custody from 10.04.2020 and that investigation is complete, as the challan has already been presented, no useful purpose would be served in keeping the petitioner behind the bars. At this stage, without commenting on the merits of the case, the instant criminal revision is allowed and the petitioner is directed to be released on regular bail on

execution of adequate personal bond and surety bond by his natural guardian or near relative to the satisfaction of concerned Principal Magistrate, Juvenile Justice Board, Karnal.

However, anything observed or said by this court is only for the purpose of deciding the instant criminal revision for grant of regular bail and the same shall have no affect on the merits of the case.

September 02, 2020
vijay saini

(JAISHREE THAKUR)
JUDGE

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