

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

105

CRR no.1111 of 2020
Date of decision:2.9.2020

Mohin Khan

... Petitioner

versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH.

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

...

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By this petition, the petitioner seeks the *setting aside* of the judgments dated 7.4.2020 and 22.5.2020 passed by the Principal Magistrate, Juvenile Justice Board, Yamuna Nagar, and the Additional Sessions Judge, Yamuna Nagar, respectively; with a further prayer made that he may be released on bail 'in the context of' FIR no.88 dated 18.2.2020, registered at Police Station Farakpur, District Yamuna Nagar, alleging therein the commission of an offence punishable under Section 365 of the IPC (with Section 376-AB of the IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 having been added later on).

Learned counsel for the petitioner submits that the petitioner is 14 years old and has been in custody for the past 6-1/2 months, with the prosecutrix having been 15 years old at the time of the alleged commission

of the offence.

He submits that though the petition earlier filed by the petitioner, bearing CRR no.971 of 2020, was dismissed on 29.6.2020, more than two months have gone by since then and therefore, especially in view of the petitioners' tender age, even in terms of Section 12 of the Juvenile Justice Act, 2015, he needs to be admitted to bail.

Notice of motion.

Mr.Praveen Bhadu, learned AAG, Haryana, accepts notice at the asking of the court.

He submits that though, no doubt, the petitioner is only 14 years of age but looking at the fact that he enticed away a 15 year old girl and took her out of the custody of her parents, and there is also an allegation of the commission of an offence punishable under Section 376-AB of the IPC, he does not deserve to be admitted to bail.

Having considered the matter, firstly of course it is to be noticed that even as per the FIR, the girl was not 112 years of age and was 15 years of age and therefore at this stage, at least *prima facie*, it would be seem to be very odd that an offence punishable under Section 376-AB of the IPC is alleged to have been committed.

Be that as it may, without making any further comment on that issue (which is naturally a *prima facie* comment as has already been observed hereinabove), simply looking at the fact that the petitioner is admitted even by the learned State counsel (on instructions) to be only 14 years old, without making any comment on the merits of the commission of any offence (or otherwise), the petition is allowed, with the petitioner

ordered to be admitted to bail to the satisfaction of the Juvenile Justice Board concerned.

2.9.2020
pk

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No