

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

CRRNo.1122 of 2020

Date of Decision:09.09.2020

Sxxx(Child in conflict with law)

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr.Navneet Singh Chhokar, Advocate for the petitioner.

Mr.Amrik Singh Narwal, DAG, Haryana.

*The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

VIVEK PURI, J.(Oral)

The present revision petition has been filed by Sxxx(name withheld to to conceal identity of the juvenile), the child in conflict with law, challenging the order dated 18.08.2020 passed by the Ld. Additional Sessions Judge, Gurugram and the order dated 10.08.2020 passed by the Ld. Principal Judge, Juvenile Justice Board, Gurugram, vide which the application for regular bail filed on behalf of the petitioner-child and the appeal preferred against the said order were dismissed.

The FIR bearing No.588 for offence under Sections 364, 302, 34, 120-B, 148 & 149 of the Indian Penal Code, 1860 and Section 25 of the Arms Act has been registered on the statement of complainant-Hari Om alleging that on 27.09.2019 at about 9.30 p.m., Joni and Moni accused alongwith 8 to 10 boys, who were in Swift Car bearing *Registration No.HR-26-CN-4393* and two motorcycles came near his house and were talking with his cousin Sanjeev who was present outside the house. The Sanjeev was taken in the Swift Car and other persons on the motorcycle also followed the car. The accused had abducted Sanjeev and efforts

were made to locate him by the complainant at his own level but to no effect. Accordingly, the FIR under Section 365 IPC was registered. Subsequently, on the recovery of the dead body of Sanjeev, the offences under Sections 148, 149, 302, 364 and 120-B of Indian Penal Code and 25 of the Arms Act were added.

It has been contended by the learned counsel for the petitioner that he is a juvenile and as such becomes entitled to bail. Furthermore, the name of the petitioner-child does not find mention in the FIR and another juvenile has already been granted bail by this Court in terms of the order dated August 04, 2020 passed in CRR No.1005 of 2020. Consequently, mainly on the principle of parity, the petitioner has approached this Court seeking the concession of bail while assailing the orders passed by the Courts below.

On the contrary, it has been argued by the learned State counsel that though the petitioner has not been named in the FIR but he has been nominated on the basis of the disclosure statement of the co-accused. Furthermore, he was present at the scene of crime, played active role in commission of crime and even the Swift Car bearing *Registration No. No.HR-26-CN-4393* used in the commission of crime, has been recovered in pursuance of his disclosure statement. Besides, three more criminal cases bearing FIR No.896/2019 for the commission of offence under Section 379-A of the IPC registered at Police Station City Karnal, FIR No.343/2019 for the commission of offences punishable under Sections 379-B & 201 of IPC registered at Police Station Murthal, District-Sonepat and FIR bearing No.398/2019 under Section 379-B & 394 read with Section 34 of IPC, registered at Police Station Rai, District Sonepat are pending against the petitioner. The petitioner is a habitual offender having extremely doubtful antecedents and in such circumstances, he is not entitled to the concession of bail.

Section 12(1) of the Juvenile Justice (Care and Protection of Children)

Act, 2015 (hereinafter referred to as 'the Act') provides as follows:-

“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.”

It is no doubt true that crux of Section 12(1) of the Act is that when a juvenile is arrested, he must be released on bail. However, there are three contingencies under which bail can be denied to the juveniles and the same are as following:-

- (i) when the release is likely to bring him in association with any known criminal, or
- (ii) expose him to moral, physical or psychological danger, or
- (iii) the release will defeat the ends of justice.

On examining the case of the petitioner on the touch stone of Section 12(1) of the Act, it pertinent to note that there are three other criminal cases of serious nature registered and pending against the petitioner. Even those cases have been registered in the year 2019 i.e. in the very recent past. The allegations in those cases pertain to commission of offences under Sections 379-A, 379-B, 394 and 201 of IPC. Such like offences, if committed on repeated occasions after brief intervals cannot be gauged lightly. The release of a person involved in commission of such like crimes will be a serious threat to the society and the chances of commission of similar crimes in association with other criminals cannot be ruled out.

Although, the other juvenile in conflict with law has been released on bail but the petitioner cannot claim parity with him. The order vide which the other juvenile in conflict with law has been granted concession of bail does not indicate that any other criminal case has been registered or pending against him.

In the case in hand, though the petitioner has not been named in the FIR, but he has been nominated on the basis of statement of the co-accused. Moreover, he is stated to be present at the scene of crime and furthermore, the recovery of the vehicle in which the deceased was abducted was recovered at his instance. The pendency of three other criminal cases pertaining to the year 2019 with regard to commission of serious offences are indicative of the fact that his release is likely to bring him in association with criminals and further expose him to moral danger.

Keeping in view the entire facts and circumstances of the case, the ends of justice will be defeated in the event the petitioner is released on bail. In these circumstances, no illegality or irregularity is made out in the orders/judgments passed by the Courts below declining the relief of bail to the petitioner.

For the aforesaid reasons, this petition being devoid of merit, is dismissed.

(VIVEK PURI)
JUDGE

09.09.2020

Anjal

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