

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

214

CRR No.1148 of 2020 (O&M)

Date of Decision: September 29th, 2020

Shubham Kumar @ Aman Kumar @ Daglas

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Mohit Sadana, Advocate
for the petitioner.

Mr. B.S. Sewak, Additional Advocate General, Punjab.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this revision petition is to the order dated 03.02.2020 passed by the Additional Sessions Judge, Patiala, whereby the appeal preferred by the petitioner against the order dated 16.11.2019 passed by the Principal Magistrate, Juvenile Justice, Board, Patiala, dismissing the application for bail of the petitioner, has not been accepted.

It is the contention of learned counsel for the petitioner that the Courts below have failed to appreciate that the petitioner has been declared as a juvenile vide order dated 08.05.2019. Even if it is presumed that the offence has been committed by the petitioner, the maximum sentence would be three years. Petitioner was arrested on 17.04.2018 and is in custody since then i.e. for more than 2 years and 5 months. Even the charge has not yet been framed and, therefore, the trial is not likely to conclude in near future. That apart, he asserts that present is a case, which was registered on the statement of mother of deceased-Sunil Kumar against unknown persons. Petitioners has been involved in the present case alleged to be on the basis of a extra judicial confession and recovery of a motorcycle stated to be used

evidence involving the petitioner and there is only confessional evidence, which would be a weak evidence and cannot be made the basis for denying the petitioner the concession of bail, especially when he has completed almost full sentence, which he would be entitled to in case of his conviction.

On the other hand, learned counsel for the State submits that the petitioner does not deserve the concession of bail. The Courts below have looked into the matter at great length and have passed detailed order rejecting the application of bail on 16.11.2019 by the Principal Magistrate, Juvenile Justice Board, Patiala, followed by the dismissal of the appeal preferred by the petitioner vide order dated 03.03.2020. He, however, could not dispute the fact that till date no charge has been framed and the petitioner is in custody for more than 2 years and 5 months.

I have considered the submissions made by the counsel for the parties and keeping in view the fact that there is no direct evidence in the present case, which would involve the petitioner in the commission of the offence except for the recovery of the motorcycle alleged to have been used in the commission of the crime as also the extra judicial confession. That apart, petitioner is in custody for more than 2 years and 5 months out of the maximum sentence of 3 years, which could be imposed in case the petitioner is found to be guilty. No charge has been framed till date and because of the prevailing circumstances, possibility of trial proceeding in the matter is not acceptable because of the restricted working of the Court. The present petition is, therefore, allowed.

Petitioner is directed to be released on bail to the satisfaction of the trial Court/Principal Magistrate, Juvenile Justice Board, Patiala.

Any observations made hereinabove are for the purpose of

disposal of the present petition alone and shall have no bearing on the merit of the case during the trial in any manner.

September 29th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No