

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

CRR No.1179 of 2020.

Decided on:- November 18, 2020.

Harshit @ Sarthak.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Aditya Sanghi, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

Mr. Amit Choudhary, Advocate
for the complainant.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioner, who is claiming to be a juvenile in conflict with law, has filed present criminal revision under Section 397/401 Cr.P.C. as well as Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, the Juvenile Justice Act) for setting aside the order dated 24.09.2020 passed by learned Principal Magistrate, Juvenile Justice Board, Fatehabad, whereby the petitioner has been declined bail in FIR No.166 dated 18.07.2020 under Sections 323, 341, 328, 307, 506, 447, 120-B and 427 read

with Section 34 IPC registered at Police Station Sadar Ratia, District Fatehabad.

Challenge has also been laid to the judgment dated 30.09.2020 passed by learned Additional Sessions Judge, Fatehabad, whereby the appeal filed by the petitioner against the aforesaid order dated 24.09.2020 passed by learned Magistrate, was dismissed.

Learned counsel for the petitioner has submitted that complainant Yudhishtir is the elder brother of co-accused Ghanshyam against whom there are allegations that he (Ghanshyam) in association with other co-accused including the petitioner had forcibly administered poison to the complainant. The petitioner has been falsely implicated in the present case. The alleged occurrence had taken place on 10.07.2020, whereas the present FIR was registered on 18.07.2020. In this manner, there is an inordinate delay of 8 days in registration of the FIR.

He has further submitted that the allegation against the petitioner is that he had caught hold both the hands of the complainant, whereas co-accused Lovish had caught hold his both legs and co-accused Hardik had poured poisonous substance in his mouth. However, there is no injury on the person of the complainant and in case poison is forcibly administered, the victim is bound to retaliate and in this process, injury will certainly be caused, but there is no injury on the person of complainant. He has referred to the copy of medico-legal report dated 10.07.2020 of the complainant (Annexure R-1 placed on the file of connected case i.e. ***CRM-M-31833 of 2020*** titled as ***Hardik Versus State of Haryana*** fixed for today) to contend that no such

injury has been shown on the person of complainant. The petitioner is in custody since 23.09.2020.

He has further submitted that the application for regular bail of the petitioner was dismissed by learned Magistrate vide impugned order dated 24.09.2020 with the observations that in case the juvenile (petitioner) is released then, it will bring him in association with known criminals and his release would defeat the ends of justice. Moreover, it will also expose him to moral, physical and psychological danger. The petitioner had filed an appeal against the said order, but the same was also dismissed by learned Additional Sessions Judge, Fatehabad vide impugned judgment dated 30.09.2020.

Learned counsel for the complainant has taken an objection that the present criminal revision is not maintainable.

Having heard learned counsel for the parties and considering the fact that the petitioner is in custody since 23.09.2020 and the culpability of the petitioner is yet to be decided during the course of trial, this Court finds that the petitioner deserves to be admitted on bail. Moreover, other co-accused, namely, Ghanshyam and Pushkar have been granted anticipatory bail by this Court vide order of even date passed in ***CRM-M-31984 of 2020*** titled as ***Ghanshyam @ Ghanshyam Dass and another Versus State of Haryana***, whereas co-accused Hardik has been granted regular bail vide order of even date passed in ***CRM-M-31833 of 2020*** titled as ***Hardik Versus State of Haryana***.

Accordingly, while setting aside the impugned order dated 24.09.2020 passed by learned Principal Magistrate, Juvenile Justice Board, Fatehabad and the impugned judgment dated 30.09.2020 passed by learned

Additional Sessions Judge, Fatehabad, the present criminal revision is allowed and the petitioner is ordered to be released on bail on his furnishing adequate bail and surety bonds to the satisfaction of learned trial Court.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

November 18, 2020
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No