

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Revision No. 2201 of 2019 (O&M)

Date of Decision: September 22, 2020

Prabhkirat Singh @ Paras

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ritesh Pandey, Advocate for the petitioner

Mr. Luvinder Sofat, AAG Punjab

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 0043 dated 02.05.2019 registered under Sections 307, 452, 427, 148, 149 IPC and Section 25/27 of the Arms Act, 1959 at Police Station Kalanaur, District Gurdaspur.

The petitioner is a juvenile, who is being tried as a major under the provisions of Code of Criminal Procedure. He had sought bail by moving a petition before the Juvenile Justice Board but the same was dismissed vide order dated 15.06.2019 passed by the said Board. Appeal against this order was dismissed by learned Additional Sessions Judge, Gurdaspur vide order dated 23.07.2019. The Courts below held that release of the petitioner on bail might expose him to moral, physical or psychological danger.

Learned counsel for the petitioner submits that the finding of the Courts below is conjectural in nature and not based on any relevant material available on record. This Court in judgment dated 31.08.2020 passed in ***Vicky vs. State of U.T. Chandigarh (CRM-M-21388-2020)*** has held that even a minor being tried as a major in the case of a heinous offence is entitled to seek bail under Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 (for

short 'the J.J. Act'). The petitioner has been in custody since 06.05.2019 and deserves to be released on regular bail.

Learned State counsel opposes the prayer for grant of bail on the ground that a heinous offence has been committed by the petitioner and that in case where a juvenile is being tried as a major, the considerations laid down in Section 12 of the J.J. Act shall not be applicable, since such a juvenile can only seek regular bail under Section 439 Cr.P.C.

In the judgment passed in *Vicky (supra)* this Court had examined the various provisions of the J.J. Act, 2015 as well as judgments padded by different High Courts to hold that even in the case of a juvenile being tried as a major, bail can be sought only under Section 12 of the J.J. Act, 2015. Thus, the conditions mentioned therein have to apply. Bail can be denied only if there is material on record to hold that the child may be exposed to mental, psychological or physical danger. In this case such a finding has been returned based only on the perception of the Court without reference to any cogent material on record.

The juvenile is entitled to bail as a matter of right unless the conditions prescribed for refusal of bail under Section 12 of J.J. Act exist. None of these conditions exist in this case as has been held hereinabove. The petitioner is, accordingly, entitled to grant of regular bail.

The petition is allowed. Orders dated 15.06.2019 and 23.07.2019 passed by the Courts below are set aside and it is directed that the petitioner be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

September 22, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No