

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

214

CRM-M-3762-2021 (O&M)

Date of Decision : November 10, 2021

HARJOT SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Ashok Paul Batra, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the juvenile petitioner, namely, Harjot Singh in case FIR No.0113 dated 30.07.2020 under Sections 302, 201, 472, 404, 482 and 120-B IPC registered at Police Station Sri Anandpur Sahib, District Rupnagar.

It has been argued by the learned counsel for the petitioner that in the present case the petitioner was juvenile at the time of commission of offence and he had filed an application for regular bail before the Children's Court (Addl. Sessions Judge), Rupnagar but vide Annexure P-1 the same has been dismissed in a mechanical manner and in utter disregard to the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. While referring to para No.9 of the impugned order passed by the learned Court below, he submitted that the reasoning given by the learned Court below is nothing but a reproduction of the statutory provisions under the first proviso of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which is nothing but a mechanical reproduction of the provisions of the Act. He submitted that bail is a matter of statutory right under the provisions of Juvenile Justice Act and departure can only be made after the reasons are recorded in the facts and circumstances of each and every case and the power is not to be exercised in a mechanical manner. He

referred to a judgment passed by this Court vide Annexure P-2 in this regard. He further submitted that vide Section 8(2) of the Juvenile Justice Act (Care and Protection of Children) Act, 2015, the power of the Sessions Court as well as the High Court for the purpose of deciding the application for bail is co-extensive with that of the Juvenile Justice Board and, therefore, the learned trial Court has passed the impugned order in violation of the first proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

He further submitted that it is a case where the petitioner was nominated on the basis of a disclosure statement made by co-accused and he is not a habitual offender nor he is involved in any other case and, therefore, he had an additional right to be protected under the first Proviso of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which is a statutory right vested in him. He further submitted that the petitioner is in custody since 30.08.2020 which is more than one year. He has, therefore, prayed for the grant of regular bail to the petitioner.

On the other hand, Mr. Karanbir Singh, learned AAG, Punjab has stated that five witnesses have been examined and so far as the custody period of the petitioner is concerned, the same is not in dispute and it is also not in dispute that the petitioner is not involved in any other case.

I have heard the learned counsels for the parties.

The petitioner was stated to be juvenile at the time of commission of offence and when he filed application for bail before the learned Children's Court (Addl. Sessions Judge), Rupnagar, the same has been dismissed without appreciating the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. A perusal of para No.9 of the impugned order passed by the learned Addl. Sessions Judge, Rupnagar would show that instead of giving any reasons for declining the bail, only the language contained in the proviso of Section

12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 has been reproduced which is nothing but a mechanical exercise of the power. Even before this Court, the learned State counsel has not been able to show anything as to what ground is available with the State for denial of the bail.

Therefore, considering the totality of the facts and circumstances of the present case, this Court deems it fit and proper to grant the concession of regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

November 10, 2021

ajay-1/rajender

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No