

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

**CRR No.43 of 2021 (O&M)
Date of Decision.06.08.2021
(Heard through VC)**

Ravi Singh

...Petitioner

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Mikhail Kad, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

1. The present revision petition has been filed to challenge the impugned order dated 19.11.2020 passed by the Juvenile Justice Board, Sangrur, whereby, the bail to the present petitioner aged 16 years (who has already been declared juvenile) has been declined and the same has been affirmed by Additional Sessions Judge, Ludhiana vide order dated 24.12.2020. The petitioner, being juvenile, has prayed for setting aside the impugned orders passed by both the Courts below.

2. The case of the petitioner is that he was arrested in FIR No.148 dated 11.11.2020 registered under Sections 376, 376AB IPC and Section 6 of the POCSO Act at Police Station Moonak, District Sangrur. He moved an application for grant of bail before Juvenile Justice Board, Sangrur but the same was dismissed. The appeal preferred by him before the Additional Sessions Judge, Sangrur was also dismissed.

3. Learned counsel for the petitioner submits that the bail

application of the petitioner has been dismissed by both the Courts below only on the ground that the victim is aged five years and since the petitioner and the victim belong to the same village, his release would defeat the ends of justice, though a perusal of the order passed by the Additional Sessions Judge, Sangrur would reflect that there is no evidence on record to establish that there is likelihood of juvenile herein coming in association with any known criminal or his release on bail would expose him to moral, physical or psychological danger. He also submits that the petitioner is in observation home since 09.11.2020 and he is ready to abide by all the terms and conditions that may be imposed by this Court while considering the petition of the petitioner herein for grant of bail.

4. Learned counsel for the respondent-State opposes grant of bail to the petitioner on the ground of seriousness of offence as the victim is aged five years.

5. I have heard learned counsel for the parties and have also perused the impugned orders as well as the allegations levelled in the FIR. Admittedly, on the basis of the allegations levelled in the complaint, the FIR, in question, was registered against the petitioner. The petitioner was tried by Juvenile Justice Board, where, he moved an application for grant of bail, being juvenile, which was dismissed. Thereafter, an appeal filed against the said order before the Additional Sessions Judge, Sangrur was also dismissed. The petitioner has been declined bail on the ground that release of the petitioner on bail would defeat the ends of justice.

6. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (here-in-after referred to as 'J.J. Act') is relevant in the

present controversy, which is reproduced as under :-

“12. 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 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 persons 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.(emphasis supplied)***

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfill the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.’’

7. From a bare reading of the provisions of Section 12 of the J.J. Act, it appears that the intention of the legislature is to grant bail to the juvenile irrespective of the nature or gravity of the offence alleged to have been committed by him, and bail can be declined only in such cases where reasonable grounds are there for believing that the release is likely to bring

the juvenile into association of any known criminal or expose him to moral, physical or psychological danger, or that his release would defeat the ends of justice. Meaning thereby, as per aforesaid provision, a juvenile can be denied the concession of bail, if any of the three contingencies specified under Section 12 (1) of the J.J. Act is available. Similar view was observed in cases **Manoj Singh vs State of Rajasthan 2004(2) RCC 995, Lal Chand v. State of Rajasthan 2006(1) RCC 167, Prakash v. State of Rajasthan 2006(2) RCR (Criminal) 530 and Udaibhan Singh alias Bablu Singh v. State of Rajasthan 2005(4) Crimes 649.**

8. The only ground on which the bail of the juvenile is rejected by the courts below is that he and the victim belong to the same village and the fact that the victim was aged 5 years at the time of alleged incident. The term 'ends of justice' is not defined in the Juvenile Justice Act and therefore, has to be interpreted keeping in view the statement and object of the statute and the legislative intent behind it. There is no doubt that the Juvenile Justice Act is a beneficial legislation and it is settled position of law that gravity or seriousness of the offence would not be a ground to decline concession of bail to the juvenile. Learned counsel for the respondent-State has also not pointed out any material available on record to show that there are reasonable grounds for believing that the petitioner is likely to come into the association of any known criminal if released on bail, or his release will expose him to moral, physical or psychological danger or as to how his release would defeat the ends of justice.

9. In view of the totality of the facts and circumstances of the case and law position as discussed above, I am of the view that no purpose will

be served in keeping the petitioner herein in custody. The impugned orders are not sustainable in the eyes of law and as such, are liable to be set aside.

10. Accordingly, the present revision petition is allowed and the impugned orders i.e order dated 19.11.2020 passed by the Juvenile Justice Board, Sangrur and order dated 24.12.2020 passed by the Additional Sessions Judge, Sangrur are hereby set aside. The petitioner is directed to be released on bail subject to his furnishing bail bond/surety bonds amounting to Rs.25,000/- each through his natural guardian or near relative to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Sangrur, subject to the following conditions:-

- (a) The natural guardian of the petitioner/delinquent juvenile will furnish an undertaking before the Principal Magistrate, Juvenile Justice Board, Sangrur that in case the delinquent juvenile is released on bail and is given in his custody he will work for improvement of the delinquent juvenile and will not create any situation which will bring the delinquent juvenile into association with any known criminal or expose him to moral, physical and psychological danger or any situation when the delinquent juvenile may repeat the offence in question and his release would defeat the ends of justice.
- (b) The petitioner will comply with all the terms and conditions of the bond executed by him.
- (c) The petitioner will cooperate in the investigation/trial, as the case may be.

(d) The petitioner will not enter into the locality of the complainant/victim and will also not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court.

(e) The petitioner shall not commit an offence similar to the offence of which he is accused.

(JAISHREE THAKUR)
JUDGE

August 06, 2021
Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No