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

CRR No.75 of 2021

Date of Decision: 08.03.2021

SANJAY KUMAR

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. DS Virk, Advocate
for the petitioner.

Mr. Rajat Gautam, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner has preferred this petition challenging the order dated 23.12.2020 passed by the Addl. Sessions Judge, Sirsa vide which order dated 15.10.2020 passed by the Principal Magistrate, Juvenile Justice Board, Sirsa was upheld.

The Juvenile Justice Board, Sirsa vide order dated 15.10.2020 dismissed the prayer for bail of the juvenile/petitioner on the ground that he had actively

participated in the crime along with the main accused.

As per prosecution story, the petitioner has been attributed *lalkara* and thereafter he along with others caught hold the son of the complainant i.e. Parveen and started giving slaps and fist blows. Thereafter Suraj gave a *gupti* blow on the left side of neck of son of the complainant i.e. Parveen and other 10-15 unknown persons also inflicted *lathi, danda* and iron rods blows on his person.

Learned counsel for the petitioner submitted that the petitioner had allegedly seen nephew of the complainant i.e. Binder Kumar talking with Indro i.e. sister of the petitioner. Lalkara was relatable to Binder Kumar only. Petitioner is a juvenile. No specific injury is attributed to the petitioner except the allegation that he along with others caught hold of Parveen and gave slaps and fist blows to him.

Learned counsel further submitted that under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Rules framed thereunder the gravity of offence is immaterial and juvenile in conflict with law is entitled to bail. The only consideration at this stage is to reach at a *prima facie* conclusion that the ends of justice would be defeated in the event of enlarging the juvenile in conflict with law on bail and such release of juvenile would expose him morally, physically

and psychologically, when he will be associated with known criminals. The bail can be rejected only on the aforesaid grounds.

According to learned counsel, no such presumption can be drawn at this stage, rather the aforesaid three eventualities may happen with the petitioner while in custody. Petitioner is in custody since 30.07.2020. As per Section 3(i) of the Act, principle of presumption of innocence would apply in case of juvenile till the complicity of the petitioner is proved by way of incriminating evidence.

Learned State counsel however opposed the grant of bail to the petitioner on the ground that the petitioner in association with other co-accused has given birth to the present case. Son of the complainant namely Parveen has died. Co-accused Suraj gave *gupti* blow on the left side of neck of Parveen which ultimately proved to be fatal.

Taking into consideration the totality of facts and circumstances and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Impugned orders are set aside. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to

the satisfaction of the Principal Magistrate, Juvenile Justice Board, Sirsa.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

March 08, 2021	(RAJ MOHAN SINGH)
<i>Atik</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No