

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

**CRR-207-2021 (O&M)  
Date of Decision: March 31, 2021  
(Heard through VC)**

Rajpal

... Petitioner

VERSUS

State of Punjab

... Respondent

**CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present      Ms. Niharika Gupta, 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 05.12.2019 passed by Principal Magistrate, Juvenile Justice Board, Faridkot whereby, the bail to the present petitioner- Rajpal aged 16 years, who has already been declared juvenile, has been declined and the same has been affirmed by Additional Sessions Judge, Faridkot vide judgment dated 14.02.2020. The petitioner, being juvenile, has prayed for setting aside the impugned orders passed by both the Courts below.

2.            Learned counsel for the petitioner herein would *inter-alia*

contend that the petitioner has wrongly been implicated in the said matter as both the petitioner and the prosecutrix were in consensual relationship. It is also argued that the impugned order dated 14.2.2020 declining bail to the petitioner would not stand scrutiny in the light of Section 12 of the Juvenile Justice Act, 2000 which specifies that bail ought to be allowed to a child in conflict with law unless there appear to be reasonable grounds that on his release, the child in conflict with law is likely to come into association with any known criminal or his release will expose him to moral, physical or psychological danger or that his release would danger or that his release would defeat the ends of justice. It is argued that both the impugned orders do not reflect as to how the petitioner herein would come into association with any known criminal if he is released on bail, as observed by the Additional Sessions Judge, Faridkot.

3. Per contra, learned counsel for the respondent-State opposes the grant of regular bail on the ground of heinousness and seriousness of offence and also because of the fact that the petitioner herein has been nominated as an accused under Sections 376, 363, 366-A and 506 of IPC along with Sections 3 & 4 of the POCSO Act and that the prosecutrix was minor on the date of the commission of the offence.

4. I have heard learned counsel for the parties and have also perused the impugned orders so passed both by the Juvenile Justice Board and the Appellate Authority as well as the allegations levelled in the FIR. A perusal of the order dated 05.12.2019 of the Juvenile Justice Board would reflect that primarily the bail was refused on the ground that investigation

proceedings were still going on and that releasing the petitioner would defeat the ends of justice, while opining that on his release, it is likelihood that the petitioner would come into association with known criminals. Whereas the Appellate Authority has dismissed the bail on the ground that the parents of the juvenile are yet to be arrested. The Appellate Authority has also ruled out that the *“probability cannot be ruled out that there is also likelihood to bring him in association with any known criminals, if he is released on bail”*. Both the orders herein are liable to be set aside as there is no reasonable explanation or finding given as to how the petitioner herein, if released on bail, would come into association with any known criminals. It cannot be lost sight of the fact that the petitioner herein who is a juvenile, is in judicial custody since 14.10.2019 and has stated that the relationship between the parties was consensual in nature. Both the Courts below have not referred to any social investigation report prepared by the respondent-State, as to the background of the petitioner or with whom he associates with. Therefore, to reject the appeal on a presumption that he would come into association with any criminal is wholly unjustified.

5. 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 both the Courts below have not satisfied the requirement of provisions of Section 12(1) of the Act and without having any material on record, the bail application of the petitioner has been declined. The impugned orders are not sustainable in the eyes of law and as such, are liable to be set aside.

6. Accordingly, the present revision petition is allowed and the

impugned orders i.e order dated 05.12.2019 passed by the Juvenile Justice Board, Faridkot and order dated 14.02.2020 passed by the Additional Sessions Judge, Faridkot are hereby set aside. The petitioner is directed to be released on bail subject to his furnishing adequate bail bond/surety bonds to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Faridkot.

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|---------------------------|--------------------------|
| <b>March 31, 2021</b>     | <b>(JAISHREE THAKUR)</b> |
| <i>seema</i>              | <b>JUDGE</b>             |
| Whether speaking/reasoned | Yes.                     |
| Whether reportable        | No.                      |