

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

(233)

CRR-382-2021

DATE OF DECISION: 04.10.2021

MANISH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. R.K. Agnihotri, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana
for the respondent-State.

SUVIR SEHGAL, J.

Heard through Video Conferencing.

Petitioner, who is a child in conflict with law, has filed the instant petition through his father and natural guardian, challenging order dated 18.02.2021 passed by Principal Magistrate, Juvenile Justice Board, Karnal, whereby application seeking grant of bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “the J.J. Act”) has been declined and order dated 02.03.2021 passed by the learned Additional Sessions Judge, Karnal, whereby appeal filed against the said order has been dismissed.

Facts, in brief, leading to the filing of the petition are that FIR No.760 dated 11.10.2020 was registered for offence under Section 186, 332, 353, 506 and 379-B of the Indian Penal Code, 1860, at Police Station Sadar, District Karnal, Annexure P-1, on the statement of a police official on the allegation that on 09.10.2021 at about 11:30 P.M., he caught two boys standing near Mohdinpur Grain Market and when he questioned them, one of them addressed the other by the name, Sunil, and told him to catch the police official from behind. In the meantime, some more boys came on the spot, threatened him, snatched his belongings, hit him with sticks and caused injuries to him. The complainant overheard the boys talking about lifting of paddy at night.

Counsel for the petitioner submits that the petitioner, who is approximately 16 years of age, is not named in the FIR and has been arraigned as an accused on the basis of confessional statement of co-accused, Sunil, Sanju and Banti Kumar, all of whom have been released on regular bail by this Court. He submits that the petitioner, who belongs to a poor family, has been falsely framed and has been arrested on 13.10.2020. Counsel urges that being a child in conflict with law, the petitioner is entitled to be released on bail as a matter of right under Section 12 of the J.J. Act. He has placed reliance upon the judgment of this Court passed in ***CRR No.53 of 2021*** titled as “***Vishvas versus State of Punjab***”, decided on 08.02.2021.

Opposing the petition, State counsel, upon instructions from, SI, Ajaib Singh, submits that a wooden stick has been recovered from the

petitioner and there are specific allegations against the petitioner, who attacked a police official and obstructed him, when he was discharging his duty.

I have considered the respective submissions of counsel for the parties.

There is no dispute about the fact that the petitioner is below 18 years of age and his application has to be dealt with in terms of the provision of Section 12 of the J.J. Act. A Co-ordinate Bench of this Court in Vishvas's case (supra) has held that that while considering the grant of bail to a child, the Social Investigation Report submitted by the Probation Officer has to be taken into consideration.

In the Social Investigation Report (Mark A), the Probation Officer has found that the family of the petitioner is poor and his parents are manual labourers. The petitioner has been reported to be a school drop out and his character has been found not to be good. He is reported to be indisciplined and is under negative influence of his friends and companions. The relevant extract of the report is reproduced here-under:-

“RESULT OF INQUIRY

- 1. Emotional factors – stable*
- 2. Physical condition – normal*
- 3. Intelligence – average*
- 4. Social and economic factors – poor & backward*
- 5. Suggestive causes of the problems – lack of education, negative influence of friends.*
- 6. Analysis of the case, including reasons/contributing factors for the offence – poor parental control.*
- 7. Opinion of experts consulted – lack of moral values.*
- 8. Recommendation regarding rehabilitation by Probation Officer/Child Welfare Officer – juvenile is facing inquiry before the Hon'ble Board for offence under Sections*

186, 332, 353, 506 and 379-B, IPC. Social Investigation revealed that juvenile is early drop out of school in class I or II only due to lack of interest in education. Family circumstances is poor and parents are labourers. They are having poor control over the juvenile and not very concerned about his conduct on future prospects. It is stated by parents that juvenile's friends/companions are much older in age and they offer him alcohol etc. also. Juvenile is having negative influence of his company. Juvenile is vulnerable and need corrective measures to stop from turning into a criminal”

This court has formed an impression from the report and the result of enquiry that the child, if given proper counseling and guidance, can be brought back to the main stream of life. Such an approach would be in tune with the objective of the statute, which provides that a child-friendly approach is required to be adopted in the adjudication and disposal of matters in the best interest of the children, and that the justice delivery system, as available for adults, is not suitable for a juvenile or a child in conflict with law. This Court, therefore, deems it appropriate that the child deserves to be released on bail and given proper counseling to safeguard his future.

The reasoning given by the Courts below while rejecting the petition, is fallacious. Lack of moral values in the child or poor parental control cannot be a ground for rejection of a petition seeking bail under the J.J. Act. There is neither any material on the record, nor could any material be referred to during the course of arguments to show that if enlarged on bail, the child would be exposed to moral, physical or physiological danger and would come in contact with any known criminals. Therefore, the impugned orders passed by the Courts below cannot be sustained.

As a result, the impugned order dated 18.02.2021 passed by the Principal Magistrate, Juvenile Justice Board, Karnal and order dated 02.03.2021 passed by the Learned Additional Sessions Judge, Karnal are set aside. Without adverting to the merits or demerits of the arguments addressed by counsel for the parties, the petitioner is ordered to be released on bail on furnishing of bail/surety bonds by his father to the satisfaction of the trial Court/Chief Judicial Magistrate/ Judicial Magistrate concerned along with securities subject to the following conditions:-

- (i) That the father of the petitioner will furnish an undertaking that upon release on bail, the juvenile will not be permitted to come in contact or associate with any known criminal or be allowed to be exposed to any moral, physical or physiological danger and that he will ensure that the child does not repeat the offence;
- (ii) that the father of the petitioner will further furnish an undertaking that he will regularly monitor the activities of the juvenile and will encourage him to pursue education and construction activities;
- (iii) that the juvenile will report to the Probation Officer on weekly basis and will be subjected to regular counseling; and
- (iv) the Probation Officer will keep a strict vigil on the activities of the juvenile and will prepare a quarterly Social Investigation Report, which will be submitted to the Juvenile Justice Board, Karnal.

Petition is disposed of.

(SUVIR SEHGAL)
JUDGE

04.10.2021

Kamal

Whether speaking/ reasoned	Yes/ No
Whether Reportable	Yes/ No