

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

CRR-957-2020 (O&M)

Date of decision: March 19, 2021

Gurpreet Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. M.K. Dhot, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.
(through video conferencing).

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 7.1.2020 passed by the Principal Magistrate, Juvenile Justice Board, Sangrur vide which the anticipatory bail application filed by the petitioner was dismissed as well as the order dated 11.2.2020 passed by the Additional Sessions Judge, Sangrur vide which the appeal of the petitioner was dismissed.

Brief facts of the case are that the FIR No.259 dated 2.10.2019 under Sections 389, 420, 506 IPC, at Police Station Lehra, District Sangrur was registered on a complaint given against Geeta Rani and Jagtar Singh (the parents) as well as the petitioner Gurpreet Singh with the allegations that the accused persons has duped the complainant of Rs.13,60,000/- regarding sale of diamonds.

The petitioner, who at the time of commission of offence, was aged about 14 years, 05 months and 19 days, filed an application for anticipatory bail which was declined by the Principal Magistrate, Juvenile Justice Board, Sangrur vide order dated 7.1.2020 observing that under Section 12 of the Juvenile Justice Act, only regular bail is maintainable and not the anticipatory bail. Thereafter, the petitioner preferred an appeal, which was dismissed by the Additional Sessions Judge, Sangrur vide order dated 11.2.2020 on the similar grounds.

While issuing notice of motion on 22.6.2020, the arrest of the petitioner was stayed.

Counsel for the petitioner has relied upon **2018(3) RCR (Criminal) 327, Mr. X (Prashob), s/o Baby V.M. Vs. State of Kerela**, wherein it has been held that there is no bar under Section 438 Cr.P.C. for entertaining the bail application on behalf of a juvenile as provisions contained under Section 12, 12(1) of the Act does not take away the jurisdiction of the Court of Sessions or the High Court under Section 438 of the Code of Criminal Procedure, even by implication and there is no provision that the anticipatory bail is expressly excluded and, therefore, the same is maintainable.

Counsel for the petitioner further relies upon **2020(3) RCR (Criminal) 180, Krishan Kumar Minor through his mother Vs. State of Haryana**, wherein this Court has allowed the anticipatory bail application by observing that the Juvenile Justice Act is a piece of social welfare legislation and was enacted to take care of welfare of children and not to

turn them into hardened criminals. If the special enactment is silent regarding the particular provision of anticipatory bail, then it has to be read in consonance with Cr.P.C. and no adverse inference can be drawn that a juvenile is debarred from seeking relief of pre-arrest bail as per provision of Sections 10 and 12 of the Juvenile Justice Act.

Learned State counsel has not disputed the factual position.

After hearing learned counsel for the parties and in view of the well settled principle of law and also in view of the fact that the arrest of the petitioner is stayed in pursuant to the order dated 22.6.2020 and the petitioner has not misused the same, this petition is allowed, the impugned orders are set aside. The Juvenile Justice Board, Sangrur is directed to release the petitioner on bail, subject to furnishing bail/surety bonds to its satisfaction, in accordance with law.

March 19, 2021
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No