

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

CRR No. 585 of 2021 (O&M)

DECIDED ON: 25th October, 2021

Axxxx @ Sxxx @ Cxx (name withheld)

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. R.S. Manhas, Advocate for petitioner.

Ms. Geeta Sharma, DAG Haryana.

AVNEESH JHINGAN, J (ORAL)

Due to COVID-19 situation, the Court is convened through video conference.

This criminal revision is filed by a child in conflict with law aggrieved of rejection of prayer for grant of bail in FIR No. 392 dated 24.12.2020, under Sections 15(c), 18, 25, 27A, 29, 59(2) of Narcotic Drugs & Psychotropic Substances Act, 1985 [hereinafter referred to as 'Act'], Sections 7, 7A, 8 of the Prevention of Corruption Act, 1988 and Sections 192, 196, 201, 202, 203, 217, 409, 166-A IPC, 1860, registered at Police Station Uchana, District Jind.

On 19.12.2020 CIA staff checked truck carrying twenty plastic bags of black colour containing 390 kg and 150 grams of poppy husk hidden with onion bags. FIR No. 388 dated 18.12.2020, under Section 15 and 61 of the Act was registered at Police Station Uchana. A secret information was received that the first and second inquiry officers alongwith other officials involved in investigation, in connivance deposited the truck in *malkhana* without showing the contraband and resultantly the present FIR was lodged.

During investigation co-accused Amandeep suffered a disclosure statement disclosing that on 18.12.2020, when he was apprehended by CIA-I, Police Jind, carrying 41 bags of poppy husk and 600 grams of Opium, he was accompanied by co-accused Rakesh and child in conflict with law (petitioner). The petitioner was nominated on basis of disclosure statement. Relying upon report that there are chances of petitioner coming in association with known criminals or chances of his exposure in moral, physical or psychological danger, his prayer of bail was rejected.

Learned counsel for the petitioner submits that the petitioner is in observation home since 21.1.2021. No recovery is to be made. The petitioner was nominated on the basis of a disclosure statement. It is contended that father of the petitioner is working as labourer to make both ends meet for his family, he would take care of his son and will ensure that he is not exposed to anti-social elements.

Learned Sate counsel submits that there is heavy recovery of almost 400 kgs of poppy husk. The petitioner is also involved in FIR No. 388 dated 18.12.2020.

Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 [hereinafter referred to as J.J. Act] is quoted below:

"12. Bail of juvenile.—(1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety 1[or placed under the supervision of a Probation Officer or under the care of any fit institution of fit person] but

he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

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

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

As per Section 12 of J.J. Act, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law, juvenile is to be released on bail and exception being that if there is reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

In the present case nomination of the petitioner is on the basis of a disclosure statement, the present FIR is an off-shoot of FIR No. 388 dated 18.12.2020, which itself has a checkered history. Conclusion of trial is likely to take time. Co-accused Badhwa Singh was granted bail by this Court. Nothing is put forth before this Court even in the reply filed by the

State to bring the case of the petitioner in the exception of Section 12 of J.J. Act.

Bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

It is however directed that the father of the petitioner shall regularly monitor the movement of the petitioner and also arrange for some counselling of the petitioner so as to ensure that he does not indulge into any such offence again.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

25th October, 2021
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(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>