

216-A

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

(Through Video-conferencing)

**CRM-M No.21013 of 2021(O&M)
Date of Decision: 02.08.2021**

Himanshu

.....Petitioner

Vs

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Baljeet Beniwal, Advocate
for the petitioner.

Mr. Zorawar Singh Chauhan, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.845 dated 07.09.2018 registered under Sections 362, 302, 201, 392, 411, 414, 34 IPC at Police Station City Ballabgarh, District Faridabad.

Vide order dated 07.11.2019 passed by Principal Magistrate, Juvenile Justice Board, Faridabad, the petitioner has been declared as juvenile as his date of birth is 01.01.2002. Principal Magistrate, Juvenile Justice Board, Faridabad has ordered that the petitioner be tried as an adult by Children

Court.

FIR was registered on the statement of complainant Tara Chand with the allegations that his brother Hoshier Singh was running a car as a taxi. On 31.08.2018, he left the house for Balabharh, Subhash Colony. On 01.09.2018, someone enquired about the car of Hoshier Singh and later on the complainant reached the police station Bahin and the police officials told him that the car of his brother was parked at a petrol pump. The brother of the complainant had sent photo of a person who had hired his car. Thereafter, they were told by the police that Anil and his companions had murdered Hoshier Singh. Thereafter, the FIR came to be registered.

The petitioner was apprehended on 08.10.2018. the allegations against the petitioner are that he along with other co-accused was involved in taking vehicle of Hoshier Singh on rent. After murdering Hoshier Singh, they had thrown the dead body. Petitioner has demarcated the place where murder was done. Petitioner had damaged the face and nose of the deceased by way of mobiles.

Learned counsel for the petitioner submits that the petitioner is entitled for regular under Section 12 of the Juvenile Justice (Care and Protection of Children) Act 2015 and Rules framed thereunder. The gravity of offence is immaterial under

this Act. The only consideration at this stage is to reach 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. Learned counsel further submits that the bail can be refused in three eventualities i.e. where reasonable ground exists for believing that the release of juvenile in conflict with law is likely to bring him in association with known criminals, the release would expose him morally, physically and psychologically and the release would defeat the ends of justice.

In view of Section 3(1) of the Act, principle of presumption of innocence would apply in case of juvenile till the complicity/guilt is proved by way of incriminating evidence.

Learned State counsel, however, opposed the bail on the ground that the petitioner has actively participated in commission of offence and specifically involved in commission of offence and that he had disfigured the face of the accused by giving repeated blows with the mobile phone.

The factual position of the case is not in dispute.

It would be debatable as such an act was pre or post murder of the deceased.

Since the trial of the case has been stayed by this Court in criminal revision petition i.e, which has been withdrawn by order of even date, I deem it appropriate to enlarge the petitioner on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the Principle Magistrate, Juvenile Justice Board, Faridabad.

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

02.08.2021	(RAJ MOHAN SINGH)
Prince	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No