

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

Criminal Revision No.644 of 2021 (O&M)

Date of Decision: August 06, 2021

Gurvinder @ Bunty

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr.Aditya Vashishath, Advocate
for the petitioner.

Mr.Vikas Malik, DAG, Haryana.

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HARINDER SINGH SIDHU, J.

By filing this revision, the petitioner Gurvinder @ Bunty, child in conflict with law, has challenged the order dated 03.06.2021 passed by the Principal Magistrate, Juvenile Justice Board, Karnal dismissing his petition for bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Challenge is also to the order dated 11.06.2021 passed by the Additional Sessions Judge, Karnal whereby the appeal of the petitioner has been dismissed.

FIR No.107 dated 17.04.2020 under Section 302 IPC (Section 3(2)(v) SC/ST Act added during investigation) was registered at Police Station Madhuban, District Karnal on the complaint of one Anil Kumar. It was stated that his brother-in-law namely Gurdeep (since deceased) resident of village Lakhnauti (UP) was working as driver on tractor trolley at Shiv Brick-kiln. Gurdeep used to sleep at the brick-kiln at night. On 17.04.2020

at about 7.00 am, the complainant received a call on his mobile that petitioner had committed the murder of Gurdeep with the boct of JCB machine. On receiving this information, the complainant reached the spot and found his brother-in-law dead on the folding bed. The bed was in broken condition and the punch boct of the JCB machine was stuck in the back of the deceased.

During investigation the Scene of Crime Team was called to the spot. One iron folding bed smeared with blood, another folding bed, one blanket smeared with blood, another blanket and blood stains lifted from the punch boct of the JCB were taken into possession. On 18.4.2020 the petitioner was arrested. He got demarcated the place of occurrence. On completion of investigation challan has been submitted.

The date of birth of the petitioner is 25.11.2003 as per his school certificate. The alleged offence was committed on 17.04.2020. The petitioner was more than sixteen years on the date of the commission of the offence. He is being tried as an adult before the Children's Court.

He filed an application for bail under Section 439 Cr.P.C which was dismissed by the Additional Sessions Judge, Karnal (Children's Court) vide order dated 03.03.2021. He thereafter filed another petition for bail under Section 12 of the Juvenile Justice (Care and Protection of Children Act) 2015 (for short "the Act") which was also dismissed by Additional Sessions Judge, Karnal vide order dated 24.05.2021. It appears that the petitioner filed a revision petition before this Court. The order therein has however not been annexed. He then yet again filed a petition for bail under Section 12 of the Act before the Principal Magistrate, Juvenile Justice Board

which was dismissed vide order dated 03.06.2021 holding that as the petitioner was being tried by the Children's Court and his application for bail had already been dismissed by that Court vide order dated 24.05.2021, the petition before the Juvenile Justice Board was not maintainable. Thereafter the petitioner filed an appeal against that order before the Additional Sessions Judge, Karnal (Children's Court) which has been dismissed by the impugned order.

While dismissing the bail application the Ld. Court has merely observed that there are specific allegations against the petitioner of having committed the offence. He is alleged to have committed the murder of the deceased by punch boct of the JCB Machine. The court has observed that such type of persons are to be dealt with an iron hand.. It was also observed that if the petitioner is released on bail then it may bring him in association with known criminals or expose him to moral, physical and psychological danger and his release would defeat the ends of justice.

Grant of bail to a juvenile is governed by Section 12 of the Act. From a bare reading of this section it is manifest that a juvenile can be denied bail only if there are reasonable grounds for believing that his release is likely to bring the juvenile 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.

It is well settled that the nature or gravity of the offence alleged to have been committed by the juvenile cannot be a ground to deny bail to him. Further bail can only be denied if there is some material before the competent court to justify the denial of bail on the grounds mentioned in

Section 12 of the Act.

In the present case there is no material on record to justify denial of bail on any of the aforesaid grounds. The impugned orders therefore cannot be sustained and are set aside.

The petitioner has been in custody since 18.04.2020. He is directed to be released on bail subject to his furnishing bail bond/surety bonds through his natural guardian or other near relative to the satisfaction of the Principal Magistrate, Juvenile Justice Board concerned. Such guardian would also submit an affidavit that he would be responsible for the welfare of the petitioner and ensure that he does not associate with any criminal or become involved in any criminal activity.

Petition stands disposed of accordingly.

August 06, 2021

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No