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

**CRR-665-2021 (O&M)
Date of Decision: 27.10.2021**

NITIN

...Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Akashdeep Singh, Advocate
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

(Through Video Conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this revision petition is for setting aside the order dated 08.06.2021 passed by Juvenile Justice Board, Rohtak declining regular bail to the petitioner in FIR No.0064 dated 16.02.2021 under Sections 302, 34, 449 of the IPC, 1860 and Section 25 of the Arms Act (Sections 120-B, 148, 149 of the IPC and Section 27 of the Arms Act added later on) registered at Police Station Urban Estate, Rohtak, Haryana as well as the order dated 17.06.2021 passed by the Additional Sessions Judge, Rohtak vide which, the appeal was dismissed.

Learned counsel for the petitioner submits that the petitioner was declared a juvenile vide order dated 08.06.2021 passed by the Juvenile Justice Board, Rohtak during the pendency of the aforesaid FIR.

Learned counsel for the petitioner further submits that the petitioner is aged about 17 years and therefore, he will be governed by the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

Brief facts of the case are that the FIR was registered on a complainant given by Pushpender that his cousin brother namely Ravi had gone out for an outing to Chandigarh along with his friend namely Rahul two days prior to the date of incident. Later on, he received an information that Ravi has been murdered with a firearm injury lying at Sector-6 road near Paul Garden. When he reached on the spot, one Naveen disclosed him that Ravi had come alongwith his friend Rahul at his hotel at around 9:00 A.M. to stay and at around 12:00 mid night, Rahul left the hotel and Ravi stayed in room No.206 of the hotel. Naveen was sleeping in his cabin and at around 3:00 A.M., three boys came in the hotel. One of them put his pistol on Naveen and the other two boys brought Ravi out from the room and then he heard the noise of firing. Thereafter, three boys ran away and when he came out, he saw the dead body of Ravi lying on the eastern edge of the road. The complainant further stated that Ravi has been murdered by some unknown persons due to some grudge and on that pretext, the FIR was registered.

Learned counsel for the petitioner further submits that thereafter, during investigation accused Yash @ Aman, Amit , Naveen, Rohit @ Vicky as well as the petitioner Nitin were arrested in this case and the petitioner was found to have conspired in commission of offence with his brother namely Deepanshu.

Learned counsel for the petitioner further submits that though

as per the prosecution version, the petitioner, his father and Deepanshu has conspired to commit the murder of Ravi, however, there was no such occasion for meeting of mind of the three persons as the incident pertains to 16.02.2021, whereas, on 03.02.2021, the father of the petitioner has already issued a public notice in the newspaper disowning Deepanshu as on an earlier occasion he was involved in the FIR under Section 307 of the IPC dated 30.01.2021, in which he had allegedly fired a shot at one Vishwas and the deceased Ravi was a witness to the said incidence.

Learned counsel for the petitioner further submits that the petitioner, who is a juvenile was never a party to the alleged conspiracy as set up by the prosecution.

Learned counsel for the petitioner further submits that as per the own disclosure of the petitioner which is relied upon by the prosecution, nothing has come on record that he actively participated in the plan to kill Ravi or was present at the place of occurrence.

Reply by way of an affidavit of the Deputy Superintendent of Police, Rohtak is on record. In the reply, after giving the details of the FIR and the investigation carried out, with regard to role of the petitioner it is submitted that the petitioner was arrested on 18.02.2021 and his disclosure was recorded. Similarly the disclosure of the other accused were also recorded in which, it has come that the petitioner was part of the conspiracy with his brother Deepanshu. It is also stated that the challan against the petitioner was filed before the Juvenile Justice Board, Rohtak on 17.05.2021 and there as 36 prosecution witnesses and none has been examined so far.

In reply, learned counsel for the petitioner submits that one of

the accused namely Naveen has already been granted the concession of regular bail by this Court vide order dated 29.07.2021 passed in CRM-M-24339-2021. A perusal of the order shows that Naveen was granted the concession of regular bail on the ground that the allegations against him was that he has given the information of the movement of Ravi to the co-accused.

Learned State counsel on a Court query could not dispute that the petitioner was not one of the three assailants, who have allegedly gone to the hotel and fired shot at Ravi.

Learned State counsel, on further query stated that as per the Social Investigation Report, it is found that the petitioner is not involved in any other case and his father is a retired Army personnel and his mother is a house wife and his family has no such criminal antecedents except his brother who is involved in 02 FIRs.

I have heard learned counsel for the parties.

Without commenting on the merits of the case and considering the allegations against the petitioner as well as the affidavit of the Deputy Superintendent of Police, Rohtak, I find that the primary allegations against the petitioner are of conspiracy under Section 120-B of the IPC and it will be a matter of trial that despite issuing public notice in the newspaper by the father of the petitioner disowning his own son Deepanshu, on account of his involvement in an earlier FIR dated 30.01.2021, can the petitioner be a part of conspiracy with his brother Deepanshu. Looking into the age of the petitioner and the Social Investigation Report, I deem it appropriate to grant the concession of regular bail to the petitioner and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the

satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate/Juvenile Justice Board, concerned.

Accordingly, this revision petition is allowed and order dated 08.06.2021 passed by Juvenile Justice Board, Rohtak, as well as the order dated 17.06.2021 passed by the Additional Sessions Judge, Rohtak, are set aside.

27.10.2021
Chetan Thakur

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No