

**210-A IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-24996 of 2021

Date of Decision: September 24th, 2021

Harsh

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Deepak Verma, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

SANT PARKASH, J.

*[The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court]*

Prayer in the instant petition is for grant of regular bail to the petitioner in case FIR No.21 dated 22.03.2020, registered under Sections 302, 397 and 201 IPC at PS Sadar Nawanshahar, District SBS Nagar.

The allegation against the petitioner is that he along with his co-accused persons, committed murder of one Jasvir Singh.

Learned counsel for the petitioner submits that on 21.03.2020, one Jasvir Singh was found lying dead alongside the road with injuries on his person and an FIR bearing No.21 dated 22.03.2020 was lodged on the version of Darbara Singh under Sections 304-A and 279 IPC, who was the first person to reach at the spot and who was known to the deceased. It was after two months that the petitioner was arrested in another FIR bearing No.47 dated 11.05.2020, under Sections 304-A and 279 IPC at PS Rahon, District SBS Nagar and since 23.05.2020, he is in illegal custody as the petitioner was minor on the date of alleged incident, his date of birth being 01.07.2002 Further in support of his arguments with regard to the juvenility

of the petitioner at the time of the alleged incident, learned counsel submits that the petitioner was granted bail in case FIR No.47 dated 11.05.2020 vide orders dated 13.05.2021 (Annexure P-3) passed by Principal Magistrate, Juvenile Justice Board, SBS Nagar by treating the petitioner as a juvenile. While being in custody in the FIR No.47 dated 11.05.2020, he is said to have suffered confessional statement before a Police Officer of his involvement in the instant case i.e. FIR No.21 dated 22.03.2020. The petitioner applied for bail in the instant FIR No.21 in the Court of learned Additional District and Sessions Judge, SBS Nagar but the same was dismissed vide orders dated 17.05.2021 on the ground that no application on behalf of the petitioner was filed for declaring him juvenile in conflict with law.

Per contra, learned State counsel while placing reliance on the reply dated 24.08.2021 filed by way of an affidavit of DSP Nawanshahar Sub Division District SBS Nagar, submitted that after having been arrested in FIR No.47 dated 11.05.2020, the petitioner and his co-accused Jagdeep Singh @ Babbu Bajwa suffered confessional statements admitting various incidents of snatching and robbery including the incident of present FIR No.21 dated 22.03.2020 and on the basis of the said confessional statements, offences under Sections 302, 397 and 201 of IPC were added in FIR No.21 dated 22.03.2020 and Sections 279 and 304-A were deleted. Further in para 9 of the reply, while opposing the contention of learned counsel for the petitioner with regard to wrong observations made in the impugned order dated 17.05.2021 (Annexure P-4) that no application was filed on behalf of the petitioner for declaring him as juvenile in conflict with

law, it has been averred that the petitioner has failed to produce any document regarding his juvenility. It has further been stated in the reply that the petitioner along with his co-accused persons, has constituted a gang for committing the acts of snatching and robbery. If the petitioner is granted concession of regular bail, he may influence the witnesses and destroy the evidence. The challan against the petitioner and his co-accused has been presented on 19.08.2020 and the charges have been framed on 02.08.2021.

It is pertinent to mention here that in FIR No.47 dated 11.05.2020, the present petitioner-Harsh was granted the concession of bail on the ground of his being juvenile under the Juvenile Justice (Care and Protection of Children) Act, 2015. His plea of juvenility raised in the instant case i.e. FIR No.21 dated 22.03.2020 was denied only on the ground that he had not moved application before the Court below.

Admittedly, the date of birth of the petitioner is 01.07.2002 whereas the date of commission of the offence is 21.03.2020 and he was less than 18 years of age at the time of commission of the offence. In the given circumstances, learned Court below ought to have decided the bail application under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015. Merely because of not filing an application for being treated as a juvenile, the mandatory provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 can not be ignored when the juvenility of the present petitioner is apparent on the face of it.

In view of the above, learned trial Court is directed to consider the plea of the present petitioner on merit with regard to his being a juvenile

under the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015, within 15 days from the receipt of a copy of this order.

Accordingly, the present petition stands disposed of with the aforesaid observations.

**(SANT PARKASH)
JUDGE**

September 24th, 2021
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No