

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

CRR No.726 of 2021(O&M)
Date of Decision: 05.08.2021

Gurlal Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Kanwar Inder Singh, Advocate for the petitioner.

Mr. Harpreet Singh, AAG, Punjab.

HARINDER SINGH SIDHU, J.

This revision petition has been filed for quashing the order dated 09.06.2021 passed by the Principal Magistrate, Juvenile Justice Board, Sangrur whereby the application of the petitioner for grant of bail filed under Section 12 of the Juvenile Justice (Care and Protection of Children Act) 2015 (for short “the Act”) has been dismissed. He has also assailed the order dated 14.07.2021 of Ld. Addl. Sessions Judge, Sangrur vide which his appeal there against has been dismissed.

FIR No.101 dated 14.05.2021 under Sections 22 & 29 of NDPS Act P.S Dirhba, District Sangrur has been registered against the petitioner on the allegation that he along with another co-accused was found in possession of 700 tablets of Tramadol Hydrochloride.

The date of birth of the petitioner is 18.06.2003. On the date of registration of the FIR he was 17 years 10 months and 26 days. He was declared as a juvenile by the Juvenile Justice Board.

He filed an application under Section 12 of the Act for grant of

bail before the Principal Magistrate, Juvenile Justice Board, Sangrur. Along with the application, the father of the petitioner had filed an undertaking by way of an affidavit that he would take care of the petitioner and keep him in his custody and not allow him to fall in bad company or associate with any criminal element.

Learned Magistrate dismissed the application holding that the petitioner along with other co-accused had been found in possession of 700 Tramadole tablets which was a commercial quantity. The Ld. Magistrate observed that there was a general tendency that the juveniles have been used as transporters of drugs by the drug mafia. If the petitioner were released on bail, he would be encouraged to commit such like heinous offence which would be a danger to the society. It was also observed that possibility could not be ruled out that on his release the petitioner would again come into association of same kind of persons who are indulging in drug peddling and it would expose him to moral, physical or psychological danger.

The petitioner filed appeal against the said order which was also dismissed. Though it was pointed out before the Court that the father of the petitioner had furnished an affidavit that he would take care of the petitioner and keep him in his custody and not allow him to fall in bad company yet. The Ld. Appellate Court while dismissing the appeal observed that no one from the family of juvenile has come forward to satisfy the conscience of the Court that upon his release, the juvenile would not be exposed to any type of danger. The Court observed that there was nothing on record to indicate that in case the petitioner were released on bail, who would keep a watch over him and protect him against any kind of moral, physical or psychological danger. The Court then observed that as the

recovery from the petitioner was of commercial quantity it gave a clear inkling that the petitioner had already come in association with bad elements and there were grounds to believe that if released he is likely to come in association with anti-social elements and expose himself to moral, physical or psychological danger.

Ld. Counsel for the petitioner has argued that the impugned orders have been passed totally ignoring the provisions of Section 12 of the Act. The bail has been denied on mere assumptions without there being any material to justify the denial. The Ld. Counsel for the State on the other hand justified the impugned orders on the ground that the contraband recovered was commercial quantity.

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 authority 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 which would justify the denial of bail to the petitioner on any of the aforesaid grounds. The impugned orders therefore cannot be sustained and are set aside.

The petitioner 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, The guardian would also file an undertaking that he would ensure that the petitioner does not associate with any criminal elements and not indulge in any criminal activity.

(Harinder Singh Sidhu)
Judge

August 05, 2021
manoj

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No