

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

CRR No.1097 of 2020.

Decided on:- February 24, 2021.

Tarif (minor) son of Sahun.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Mazlish Khan, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

The petitioner, who is claiming himself to be a juvenile in conflict with law, has filed present criminal revision under Section 401 Cr.P.C. for setting aside the order dated 27.01.2020 passed by learned Principal Magistrate, Juvenile Justice Board, Panipat, whereby the petitioner has been declined bail in FIR No.662 dated 07.10.2019 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) registered at Police Station Samalkha, District Panipat.

Challenge has also been laid to the judgment dated 30.07.2020 passed by learned Additional Sessions Judge/Fast Track Court (POCSO),

Panipat, whereby the appeal filed by the petitioner against the aforesaid order dated 27.01.2020 passed by learned Magistrate, was dismissed.

The aforesaid FIR was registered against the petitioner on the basis of secret information that a Canter bearing registration No.MH-4GR-4124 loaded with oil cartons was being used for transporting *Chura Posat/Doda*. When the said vehicle was got stopped, the driver disclosed his name as Tarif (petitioner herein) and co-accused Aamir was sitting besides him. They showed invoice No.1275171 qua 1351 lubricants, but on checking 322 Kg. *Chura Posat* was recovered from 17 plastic sacks (16 of black colour and 1 of white colour). Accordingly, both of them were booked under Section 15 of the NDPS Act.

Learned counsel for the petitioner has submitted that co-accused Aamir has already been released on regular bail by this Court vide order dated June 29, 2020 passed in ***CRR No.865 of 2020*** titled as ***Aamir through his father Sahun Versus State of Haryana***. The petitioner is in custody since 07.10.2019 and there is no other case against him. He has been wrongly denied for bail by learned Courts below, Principal Magistrate, Juvenile Justice Board, Panipat vide order dated 27.01.2020. Similarly, the appeal filed by him against the order dated 27.01.2020 has been dismissed by the appellate Court by observing that the release of child in conflict with law on bail may bring him in association with the known criminals and expose him to his re-indulgence in commission of similar crime of smuggling of narcotic material.

Learned State counsel has not disputed the custody of the petitioner and the fact that co-accused Aamir has already been released on bail by this Court. However, she has submitted that the recovered quantity is

commercial in nature. The petitioner is a resident of Rajasthan and in case he is admitted on bail, he may adversely affect the trial and may cause delay unnecessarily.

I have heard learned counsel for the parties.

Noticing the fact that co-accused Aamir, who is similarly placed, has already been admitted on bail by this Court and the petitioner is in custody since 07.10.2019 and there is no other case against him, this Court finds that the petitioner deserves to be admitted on bail.

Accordingly, while setting aside the impugned order dated 27.01.2020 passed by learned Principal Magistrate, Juvenile Justice Board, Panipat and the impugned judgment dated 18.02.2020 passed by learned Additional Sessions Judge/Fast Track Court (POCSO), Panipat, the present criminal revision is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds in the sum of Rs.5 lakh of local resident of Panipat to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Panipat/Duty Magistrate.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case and the trial Court shall decide the case without being influenced with these observations in any manner.

February 24, 2021
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No