207 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33191-2021

Date of Decision: 25.08.2021

Vicky @ Sukhchain Singh (minor through his mother) ... Petitioner

Versus

State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Ashish Aggarwal, Advocate
for the petitioner.

Ms. Monika Jalota, DAG, Punjab
for the respondent-State.

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AVNEESH JHINGAN , J.(Oral)

1. The matter is taken up for hearing through video conference due to COVID-19 situation.

2. This petition under Section 438 of the Code of Criminal Procedure is filed seeking pre-arrest bail in case FIR No. 21 dated 12.03.2021 under Sections 307, 323, 34 IPC, 1860 registered at Police Station Chohla Sahib, District Tarn Taran.

3. The application for anticipatory bail filed by petitioner was dismissed by Additional Session Judge, Tarn Taran being not maintainable.

4. Learned counsel for the petitioner submits that the issue whether petition for anticipatory bail would lie in spite of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 starting with non-obstante clause is referred to the Division Bench.

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5. Submission is that while making reference the petitioner was granted interim bail.

6. Learned State counsel submits that matter is pending in the reference before a Division Bench and there is no interim order passed by the Division Bench.

7. Considering that the child in conflict in the present case is pleaded to be less than of 15 year of age. The legal issue is pending in a reference, the Court as an interim measure had granted interim protection in that case. The application of petitioner was dismissed without going on merits, only on the issue of maintainability.

8. As an interim measure, the matter is remitted back to the Additional Sessions Judge, Tarn Taran to decide the application under Section 438 on merits.

9. It is clarified that any decision taken with regard to anticipatory bail shall be subject to outcome of the decision in reference pending before the Division Bench.

(AVNEESH JHINGAN)
JUDGE

25.08.2021
Parveen Sharma

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

PARVEEN SHARMA
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