

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-37820-2021

Date of Decision: 13.09.2021

Dimpa Singh (minor) through his father Bikkar Singh

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P. S. Sekhon, Advocate for the petitioner.
Mr. V. J. Jauhar, Senior DAG, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This petition under Section 438 of the Code of Criminal Procedure is filed seeking pre-arrest bail in case FIR No. 80 dated 12.6.2021, under Sections 307, 341, 148 and 149 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Kot Isse Khan, District Moga.
2. The application for anticipatory bail filed by petitioner was dismissed by Additional Session Judge, Moga being not maintainable.
3. 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.
4. Submission is that while making reference in that case the petitioner was granted interim bail.
5. 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.

6. The petitioner in the present case is pleaded to be less than of 18 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.

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

8. 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

13th September, 2021

mk	1. Whether speaking/ reasoned	:	Yes / No
	2. Whether reportable	:	Yes / No