

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

CRR No.1333 of 2021

Date of Decision :December 14 2021

Suhail Ahmad

..... Petitioner

vs

State of Haryana

.... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present : Mr. Tribhuvan Dahiya, Sr. Advocate with
Mr. Brij Mohan Vashishtha, Advocate for the petitioner.

Mr. Tarun Sharma, AAG, Haryana.

SURESHWAR THAKUR, J. (Oral)

The bail applicant is a juvenile in conflict with law. He is alleged, in FIR bearing No.45 of 27.01.2021, to commit the borne therein offences embodied under Sections 201, 302, 34 IPC (later on changed to under Sections 460, 201, 120-B, 34 IPC and 25 Arms Act, in the final report, under Section 173 CR.P.C.), FIR (supra) is registered against the petitioner-bail applicant, at Police Station Quilla Panipat.

2. The learned State counsel, does not contest, the factum of the bail applicant being a minor, therefore, he is to be construed to be a juvenile in conflict with law. His bail application is regulated by Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act').

3. The bail applicant made bail application bearing No.539 of 2021 before the learned Addl. Sessions Judge, Panipat, and, constituted it under

Section 12 of the Act. However, thereons the learned Additional Sessions Judge concerned, vide order of 11.10.2021, made a verdict of dismissal.

4. The bail applicant/juvenile in conflict with law is aggrieved from the afore made order, and, has challenged it, through casting the instant criminal revision before this Court. The Act (supra), is a special Act, and, confers certain statutory privileges, to the juvenile in conflict with law. One of the statutory privileges is of bail being granted to juvenile, in conflict with law, rather in the manners enshrined therein, and, within the parameters carried therein. The relevant provisions of Section 12 of the Act are extracted hereafter:

“12. (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under subsection (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by

the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.”

5. Though in sub Section (i) of Section 12 of the Act, occurs a non-obstante clause, inasmuch as *dehors* anything contained in the Cr.P.C., 1973 (2) of 1974 , hence prohibiting the grant of bail qua non-bailable offences, as, committed by persons other than juveniles not in conflict with law, rather the application for bail preferred by a juvenile in conflict with law, becoming not regulated by the apposite provisions in the Cr.P.C., rather becoming completely regulated by Section 12 of the Act.

6. Consequently, it is to be determined from the order challenged before this Court, whether the ingredients (*supra*), as carried in the provisions occurring in sub Section (i) of Section 12 of the Act, became established before the learned Court below. Though in paragraph 5 of the impugned order, the learned Court has referred to the abovestated ingredients carried in the proviso to sub Section (i) of Section 12 of the Act. However, the learned Judge has not proceeded, to either refer to any material on record, if any, as may have been placed, in support of the *factum*, that upon the bail applicant being released on bail, therebeing, every likelihood of the bail applicant-jvenile in conflict with law, being exposed to moral, and, psychological harm, and, or his being put in association with hardened criminals.

7. However, the learned Judge referred to the gravity of the alleged offence, made against the bail applicant, and, hence concluded that the ends of justice, would suffer in case the petitioner herein is released, on bail, moreso when some of the prosecution witnesses remain unexamined. Though on afore ground, the learned Judge, could made a valid order, within the ambit of the proviso to sub Section (i) of Section 12 of the Act, as, it would advance the ends of justice. Nevertheless, the mere fact qua ends of justice becoming defeated merely upon certain PWs remaining unexamined, without any evidence becoming adduced by the prosecution, that hence therebeing every likelihood of his influencing them, rather does not also render it to constitute a valid reason.

8. Therefore, even if assumingly some PWs remained unexamined, nonetheless the claim for bail, by a juvenile in conflict with law, could well be allowed, even through directions being pronounced, qua his during the tenure of his being on bail, remaining under the supervision of a Probation Officer or under the care of a competent person. Moreso, since the afore provision is a specially conferred privilege on a juvenile in conflict with law. Consequently, for the above reason, the reason (supra) declining bail to the petitioner becomes infirm.

9. In any case, and, reiteratedly if there was some likelihood, as stated (supra), thereupon, the learned Judge could obviously obviate it, though his making rather a direction, that the juvenile in conflict being placed under the supervision of a Probation Officer, rather than declining bail to him. The above mere surmises, and, conjunctures are misfounded, and, cannot be a

ground for declining bail to the bail applicant. Therefore, the impugned order is quashed and set aside. The juvenile in conflict with law is ordered to be released from custody, and, is directed to be ensured by the District Magistrate concerned, that he be forthwith placed, under the supervision of a Probation Officer. In case, the Probation Officer during the course of his supervision finds the juvenile in conflict with law, alingning or associating himself with hardened criminals, and, or his influencing prosecution witnesses, he can thereupon, make a report to this Court, and, hence this Court after hearing the juvenile in conflict with law, may make an order for resiling the facility, as today becomes granted to him.

December 14, 2021*sarita***(SURESHWAR THAKUR)
JUDGE**

Whether Speaking/Reasoned	:	Yes
Whether Reportable	:	Yes