

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

CRR-1332-2020 (O&M)

Date of Decision: 19.04.2021

(Heard through V.C.)

Himanshu

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Parveen Kaushik, Advocate
for the petitioner.

Mr. Dhruv Sihag, A.A.G., Haryana

JAISHREE THAKUR, J. (Oral)

The present revision petition has been filed to challenge the impugned order dated 10.08.2020 passed by the Ld. Additional Sessions Judge, Exclusive Court, Jhajjar, whereby, the bail to the present petitioner aged 17 years has been declined. The petitioner, being juvenile, has prayed for setting aside the impugned orders passed by both the Courts below.

The case of the petitioner is that he was arrested in case FIR No.0021 dated 24.01.2019, under Sections 363, 366-A, 376 and 328 of IPC and Section 4 of POCSO Act registered at Police Station Sector-6, Bahadurgarh. The appeal preferred by him before the Additional Sessions Judge, Jhajjar was also dismissed.

Learned counsel appearing on behalf of the petitioner herein would contend that the petitioner was a juvenile, aged 17 years and 11

months as on the date of the alleged offence and by virtue of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, he would be entitled to regular bail which has illegally been denied to him by the Additional Sessions Judge, Jhajjar vide impugned order dated 10.08.2020. He would further rely on a judgment passed by this Court in '**CRR-53-2021 dated 08.02.2021** titled as '**Vishvas Vs. State of Punjab**' to contend that the mandate of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (here-in-after referred to as 'J.J. Act') is that bail ought to be allowed to a Child in Conflict with law.

It is also argued that the FSL report dated 08.03.2019, reflect that semen was detected on Exhibit No.4, which is a swab. However, there is nothing to connect the swab with the victim.

Learned counsel appearing on behalf of the respondent-State on the other hand would oppose the grant of regular bail to the petitioner by contending that the petitioner herein is being tried as an adult and the allegations against him are serious in nature.

I have heard counsel for the parties and have also perused the impugned order as passed by the Additional Sessions Judge, Jhajjar.

The primary reason for declining the bail of the petitioner herein is that the allegations of rape and penetrative sexual assault have been levelled against the petitioner herein which allegations are serious in nature.

In the judgments rendered in **Vishvas's** case (supra), it has been held that as per Section 12 of the J.J. Act, bail is normally to be allowed to a child alleged to be in conflict with law and the only exception to denying bail would be if there are reasonable grounds for

believing that the release is likely to bring such the juvenile in conflict with law into association with any known criminal or expose the said juvenile in conflict with law to moral, physical or psychological danger or the release of the juvenile in conflict with law would defeat the ends of justice, In the instant case, the Additional Sessions Judge, Jhajjar has not referred to any social investigation report to come to the conclusion that on release the petitioner herein would be exposed to known criminals or that his release would expose him to moral, physical or psychological danger. The observation that in case he is released on bail, the same would defeat the ends of justice, is not supported by any reasoning. In the instant case, even if the petitioner is released on bail there is no likelihood of him influencing the material witness i.e. the prosecutrix herein, since she already stands examined as PW-5.

Keeping in view the facts and circumstances of the case, I deem it appropriate to allow the petitioner benefit of bail, at this stage. The petition is allowed and the impugned order dated 10.08.2020 is hereby set aside. The petitioner is ordered to be released on regular bail on his furnishing adequate bail bonds and surety bonds to the satisfaction of trial Court/Duty Magistrate concerned.

19.04.2021

(JAISHREE THAKUR)

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JUDGE

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