

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1704-2022
Date of decision: 10.02.2022

Yusuf
...Petitioner

Versus

State of Haryana
...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Mohd. Arshad, Advocate
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
224	19.06.2020	Ferozepur Jhirka, District Nuh	302, 120-B IPC

1. The petitioner apprehending arrest in the FIR captioned above has come up before this Court under Section 438 CrPC seeking anticipatory bail claiming to be a juvenile.
2. In paragraph 27 of the petition, it is declared that the accused has no criminal history.
3. The petitioner had filed a petition for quashing the order of warrants of arrest. Such petition was registered as CRM-M 33357 of 2021 and was dismissed vide order dated 04-10-2021. Learned co-ordinate Bench while dismissing the petition had referred to the submissions of the learned counsel representing the State. The relevant portion of the order is extracted as follows:-

“Learned State counsel has specifically denied that the petitioner is a juvenile and submits that since he has not been arrested, this fact can only be ascertained by the Juvenile Justice Board or the competent Court, after he produces any such evidence. It is further submitted that the investigation leads to cogent and reliable evidence that the petitioner was involved in murder of Yakoob.

After hearing learned counsel for the parties, I find no merit in the present petition.

*So far as the judgment of the Hon'ble Supreme Court in **Dawood Ibrahim Kaskar's** case (supra) and judgment of this Court in **Gurjeet Singh Johar's** case (supra) are concerned, those are not applicable to the offence punishable under Section 302 IPC, as the directions are applicable to the offences, where sentence is less than 07 years.*

Considering the serious allegations against the petitioner and finding no illegality or irregularity in the impugned order dated 17.03.2021 passed by the Illaqa Magistrate, this petition is dismissed."

4. Instead of approaching the concerned court under the Juvenile Justice (Care and Protection of Children). Act, 2015, the petitioner has filed a petition under section 438 CrPC, whereas he had sought an identical relief while challenging the order vide which warrants were issued. Thus, the petitioner has tried to circumvent the law, which is not permissible. Consequently, granting similar relief under different provision would amount to recalling its earlier order, which is impermissible under section 362 CrPC. Given above, there is no merit in this petition.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

February 10, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.