

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-3665-2020
Reserved on: 06.09.2022
Pronounced on: 14.09.2022

Sanjay Kumar ...Petitioner

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. A.S. Nirmaan, Advocate for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

Mr. Mohit Kumar, Legal Aid Counsel
for respondent No.2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
251	03.12.2019	Phase-1 SAS Nagar Mohali	302 IPC

1. Seeking cancellation of bail granted to the accused in the FIR captioned above, the aggrieved person has come up before this Court under Section 439(2) of Code of Criminal Procedure, 1973 (CrPC).
2. Vide order dated 18-12-2019, The Principal Magistrate, Juvenile Justice Board, SAS Nagar, had granted bail to the accused because the gravity of the offence is not to be considered when deciding bail of a juvenile.
3. The State has filed a reply to this petition, in which it has been explicitly stated that the date of birth of the accused, as per school records, was 26-04-2002. The State contends that the crime occurred on 3-12-2019; as such, the accused was a minor but whether he is to be treated as juvenile can only be after Board's decision because the offence attracted a sentence of life imprisonment. It has been mentioned that the State has already filed an appeal before the Sessions Court challenging the bail order.
4. Section 101 of the Juvenile Justice Care and Protection of Children Act, 2015, provides for appeals. Given this, when there is a statutory remedy in a special act, the present petition under section 439(2) CrPC is not maintainable at this stage and would

be attracted only after exhausting all remedies under the Juvenile Justice Care and Protection of Children Act, 2015.

4. In the facts and circumstances peculiar to this case, the petition is not maintainable. Liberty reserved to approach this court at an appropriate stage.
5. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

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

(ANOOP CHITKARA)
JUDGE

14.09.2022
sonia arora

Whether speaking/reasoned:	Yes
Whether reportable:	No.