

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

**CRM-M-4464 of 2022
Date of Decision:- 07.05.2022**

Pankaj

....Petitioner

Vs.

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Sumit Sangwan, Advocate
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

KARAMJIT SINGH, J.(Oral)

Prayer is for grant for regular bail to the petitioner in case having FIR No.0275 dated 26.08.2020 registered under Sections 302, 34 of IPC and Section 25 of Arms Act, 1959 (wrongly mentioned in the FIR Sections 54 and 59 of Arms Act 1959 as 54 is the number of Act and 59 is the year of the Act), (Section 120-B of IPC also mentioned in the order dated 01.12.2021), Police Station Beri, District Jhajjar.

The FIR in the case was registered on the basis of statement of Bijender in which he alleged that on 25.08.2020 at about

6.00 PM Deepak son of Surrender called his nephew Sonu from his house. At that time Deepak was accompanied by petitioner Pankaj, Aasu, Birdhana and others. They all took Sonu to the fields, where two other friends were also called and then they shot dead Sonu. Immediately, the complainant reached their and saw 4/5 boys were running away while Sonu was lying dead at the spot. The petitioner was arrested on 28.08.2020.

The bail application is opposed by the State counsel.

The status reports filed on behalf of the State were taken on record.

Admittedly, the petitioner was juvenile at the time of alleged occurrence. He was ordered to be treated as an adult by the Court of Principal Magistrate, Juvenile Justice Board, Jhajjar. Presently, the petitioner is facing trial before the Children Court.

The State counsel on instructions from ASI Sunil Kumar apprised the Court that during investigation no fire arm was recovered from the possession of petitioner. The State counsel further submitted that out of total 21 PWs, 8 PWs have been examined including the complainant.

It is pertinent to mention that provision has been made under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short 'Act') that when any juvenile, who is accused of bailable or non bailable offence, is arrested or detained or

is brought before a Board than irrespective of accusation, he shall be released on bail except when:

(1) There appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or

(2) That it will expose him to moral, physical or physiological danger or

(3) That his release would defeat the ends of justice.

Section 15 of the Act provides for preliminary assessment by the Board with regard to mental and physical capacity of a child, who has completed or is above the age of 16 years, to commit heinous offence.

Section 18(3) of the Act, provides that after making the assessment under Section 15, if the Board comes to a conclusion that there is a need for trial of the child as an adult, the Board may pass an order for transfer of the trial of the case to the Children Court.

In the case in hand, it appears that all the material witnesses have already been examined during the trial. Also nothing has been brought on record to show that the case of petitioner is covered under the exceptions carved out in Section 12 of the Act.

In view of the above, I find that the petitioner is entitled to grant of regular bail. Accordingly, the present petition is allowed.

The juvenile namely Pankaj (minor) son of Jai Bhagwan, be released on bail and his custody be given to his father Jai Bhagwan on his filing a personal bond and two sureties of the like amount to the satisfaction of the CJM/Children Court concerned with an undertaking that guardian father Jai Bhagwan shall keep the juvenile away from anti social and criminal elements and will look after his education, health and welfare as per the social status of the family. Father of the petitioner will also give an undertaking that on being so released on bail, the juvenile will not indulge in commission of any crime and is also to ensure presence of the petitioner during the trial before the court concerned whenever so required by the said Court.

07.05.2022*P. Chawla***(KARAMJIT SINGH)
JUDGE**

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No