

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

232

**CRR-536-2021(O&M)**  
**Date of decision: 11.07.2022**

**JASKARAN SINGH**

....Petitioner(s)

**Versus**

**THE STATE OF PUNJAB**

...Respondent(s)

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

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Present : Mr. Abhishek Khullar, Advocate for  
Mr. J.S. Jaidka, Advocate  
for the petitioner.

Mr. Karanbir Singh, AAG Punjab.

Mr. Pulkit Dagar, Advocate  
for complainant (legal-aid counsel).

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**VINOD S. BHARDWAJ. J. (ORAL)**

The present revision petition has been preferred against the order dated 24.12.2020 passed by the Principal Magistrate, Juvenile Justice Board, Ludhiana in criminal case bearing BA No.44320/2020 in FIR No. 171 dated 23.11.2020 registered under Section 302 and 201 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') at Police Station Dakha, District Ludhiana dismissing the bail application of the petitioner and also against the judgment dated 29.01.2021 passed by the Additional Sessions Judge, Ludhiana in Criminal Appeal No. CRA/02/2021 whereby the appeal against the aforesaid order has been dismissed.

Perusal of the record reveals the brief facts of the case are that the present FIR was got registered by complainant Gurdev Singh S/o Gajjan Singh, resident of Village Baddowal, when he met the police party headed by SI

Kirandeep Kaur, when the police party was present at Railway Track, Baddowal. The complainant in his statement stated that he is a labourer. He has two sons and daughters. On 21.11.2020 at about 8.00/8.15 p.m., his son Jashanpreet Singh aged about 18 years, received a phone call on his mobile No.73409-58732 and thereafter, his son left the house without disclosing anything to them. The complainant and his family members searched for his son with their relatives & friends, but no clue was found. However, in the morning of 23.11.2020, complainant received a phone on his mobile from Sarpanch Jaspreet Singh, who disclosed that a dead body of a boy was lying in the gutter in the backside of Victoria Colony. When complainant alongwith Khardukhan Singh went to the spot, he found that it was the dead body of his son Jashanpreet Singh, who was murdered by some unknown person by hitting his head & mouth with the bricks. From the above statement and the facts of the case, prima-facie, an offence under Sections 302 & 201 IPC was found to have been committed by some unknown person and the investigating officer sent Ruqa to the police station through Constable Lakhwinder Singh No.217, for registration of the case. Thereafter, the investigating officer went to inspect the spot from where four bricks, blood stained earth and clothes of the deceased were taken into possession vide separate memos. IO prepared rough site plan of the place of occurrence. IO further recorded statements of witnesses U/s 161 Cr.PC. Memos prepared at the spot were attested by IO and ASI Paramjit Singh. After that postmortem of the dead body of the deceased was got conducted from CHC Sudhar. During further investigation, the child in conflict with law (i.e. the present appellant) and his accomplice-Sandeep Singh were arrested. A separate challan in respect of the present appellant being child in conflict with law was prepared separately.

Upon the case being registered, the petitioner was arrested and a petition for releasing the petitioner on bail was filed before the Principal Magistrate, Juvenile Justice Board, Ludhiana. The same was dismissed by making a reference to the social investigation report and to contend that the report mentions that the reason for involvement of the petitioner in commission of the offence is on account of the peer group influence.

Furthermore, a reference is made that the evidence collected by the investigating agency during the course of investigation establishes that in the event of juvenile being granted bail, the same is likely to bring him into association with known criminals or expose him to moral, physical or psychological danger faced by him on account of the allegations of murdering one young boy aged 18 years.

An appeal against the aforesaid order passed by the Principal Magistrate, Juvenile Justice Board, Ludhiana was preferred before the Court of Additional Sessions Judge, Ludhiana, however, the said appeal was also dismissed. Hence, the present revision petition.

Learned counsel appearing on behalf of the petitioner has contended that the date of birth of the petitioner is 25.11.2003 and as on the date of incident, he was 17 years of age. It is contended that Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 mandates a child in conflict with law to be granted the concession of bail with or without surety or placed under the supervision of a probation officer unless there appears reasonable grounds for believing that the release is likely to bring the child in conflict with law into association with any known criminal or expose the said person to moral, physical or psychological danger or such a release is likely to defeat the ends of justice.

Furthermore, Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down principles to be kept in mind by the Court including a presumption regarding the innocence of the child of any *mala fide* or criminal intent up to the age of 18 years and that primary consideration of a Court, at the time of consideration of the petitions preferred by Juvenile or children in conflict with law should be principle of repatriation and restoration of the child with his family and all resources of the Government are required to be mobilized for promoting the well being of the juvenile and facilitating development of identity and providing an inclusive and enabling environment to reduce vulnerabilities of children. The social investigation report of the juvenile that was filed in Form 6 before the Court however shows that the child had indulged himself in commission of the offence on account of 'peer group influence' and did not suffer from any criminal behaviour. It is also apparent that the child was not apprehended earlier in any offence and that the mental condition of the child and all other circumstances were normal. It is further apparent from the said report that no expert was consulted while submitting the aforesaid report and there is no recommendation regarding rehabilitation by the Probation Officer/Child Welfare Officer and the same is yet to be decided by the Court. Invariably, the social investigation report furnished by the Legal-cum-Probation Officer of the District Child Protection Unit does not express the apprehension of the child being exposed to any known criminals or being subjected to any moral, physical or psychological danger. It also fails to reflect that the petitioner has any criminal antecedents or has criminal tendencies/behavior. Besides, there was no psychological examination of child in order to ascertain the general tendencies of the child. Absence of consultation with any expert is apparent in the aforesaid

report. There was thus no occasion for the Courts below to hold that the exercise of jurisdiction vested under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is likely to cause psychological danger to the petitioner. It also fails to reflect as to why the release of the petitioner on bail and handing over the custody of the petitioner to the parents would not be in the best interest of the child and as to why such an atmosphere would not be rehabilitative and restorative for the child. The reasoning adopted by the Courts below is not substantiated by the social investigation report pertaining to the juvenile furnished in terms of Rule 10, 11 and 64 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 and thus could not have been given any wider import and meaning than what is contained therein. The objective of the mandate of the Juvenile Justice (Care and Protection of Children) Act, 2015 cannot be defeated in a perfunctory manner and by ministerial reference to the report to infer what is not contained therein.

Learned State counsel however contends that the evidence has been collected on record which shows participation of the petitioner in commission of offence. The offence being heinous, the petitioner does not deserve concession of bail, even otherwise, the release of the petitioner is likely to bring him in contact with known criminals and expose him to moral, physical as well as psychological danger on account of his involvement in commission of an offence of murder.

The submissions advanced by the counsel for the State are adopted by the counsel representing the respondent-complainant.

In view of the principles laid down under Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the mandate of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the obligation

is cast upon the respondent-State to put forth the circumstances giving rise to a reasonable apprehension for believing that the release of the juvenile is likely to bring him into association with any known criminals or expose him to moral, physical or psychological danger or that the release of the juvenile would defeat the ends of justice. In the absence of any such circumstances being demonstrated by the prosecution or in the social investigation report furnished by the experts, there can be no presumption of such a fact merely because the petitioner is nominated as an accused for commission of offence punishable under Section 302 and 201 of the IPC. Besides, the petitioner-jvenile has been in custody since 24.11.2020 i.e., nearly for 01 year and 08 months. It is considered that the maximum sentence that is so permissible to be imposed on a 'juvenile in conflict with law' in the event of the juvenile being held guilty is for a period of 03 years under Section 18 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

Consequently, the present petition is allowed and order dated 24.12.2020 passed by the Principal Magistrate, Juvenile Justice Board, Ludhiana and the judgment dated 29.01.2021 passed by the Additional Sessions Judge, Ludhiana dismissing the bail application of the petitioner are set aside.

Accordingly, the present petition is allowed and the petitioner shall be released on bail upon furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

**(VINOD S. BHARDWAJ)**  
**JUDGE**

**July 11, 2022**

*S.Sharma(syr)*

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| <i>Whether speaking/reasoned</i> | : | <i>Yes/No</i> |
| <i>Whether reportable</i>        | : | <i>Yes/No</i> |