

212

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1012-2022

Date of Decision: September 28, 2022

Gaurav Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.P.K.S.Phoolka, Advocate
for the petitioner.

Mr.Sandeep Kumar, DAG, Punjab.

.....

RAJESH BHARDWAJ, J.(ORAL)

Petitioner has approached this Court impugning the order dated 08.02.2021 passed by learned Additional Sessions Judge, Bathinda, in FIR No.261, dated 23.12.2020, under Sections 376 AB/376 DB IPC and Section 6 of the POCSO Act, registered at Police Station Canal Colony, Bathinda, vide which bail of the petitioner-jvenile was declined.

As per facts of the case, FIR was lodged by mother of the victim, who is four years of age. It was alleged that she had gone to market for buying vegetables and the victim was playing outside the house and when she returned, she found her missing. She heard the screams of the child and rushed to the same place where she found that the petitioner-jvenile was committing immoral acts with the child. The child was brought by the mother from there and admitted in the hospital. Complaint was made to take the legal action against the accused. Petitioner was 15

medically examined. The accused, being a juvenile, was produced before the Juvenile Justice Board. As per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for brevity, 'the JJ Act'), the petitioner-jvenile was sent to the observation home. He filed a bail application before the Juvenile Justice Board, Bathinda, however, the same was declined by it vide its order dated 08.01.2021. Thereafter, he filed an appeal under Section 101 of the JJ Act before the learned Additional Sessions Judge, Bathinda, which was also declined vide its order dated 08.02.2021. Aggrieved by the same, the petitioner is before this Court.

Counsel for the petitioner has vehemently contended that admittedly the petitioner is a juvenile, 15 years of age. He has submitted that petitioner belongs to State of Orissa and he is from a marginal family in the society. He has submitted that allegations against the petitioner though are pertaining to the offence against a child, however, overall circumstances of the petitioner be kept into consideration. Petitioner-jvenile is a child of 15 years and he has been totally isolated from the society. He has submitted that even otherwise, the only ground of rejection of his bail by the Court is that he may come in contact with some anti social elements which is not substantiated from facts of the case. He submits that petitioner is behind bars from the last 1 year and 08 months and thus, in the interest of justice, he be enlarged on bail.

Learned State counsel, however, has opposed the submissions and has submitted that petitioner-jvenile is involved in heinous offence pertaining to the child of four years of age. He submits that the petitioner was conscious enough about his conduct at the time of committing offence.

Heard.

There is no denial to the fact that victim in this case is four years of age. On the other hand, the petitioner is also a child of 15 years of age. Petitioner-juvenile belongs to a down trodden family. He is at the threshold of his life and is behind bars from the last 1 year and 8 months. His custody for such a long period would be counter productive as there are every chance that long incarceration would adversely affect the overall growth of the petitioner-juvenile as well.

Keeping in view the overall facts and circumstances of the case, I am of the opinion that this is the appropriate time that the petitioner-juvenile be enlarged on bail.

Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail to the satisfaction of the concerned trial Court/Duty Magistrate.

Nothing said hereinabove shall be treated as an expression of opinion on the merits of the case.

September 28, 2022
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(RAJESH BHARDWAJ)
JUDGE

- 1. Whether speaking/reasoned ?**
- 2. Whether reportable ?**

Yes/No
Yes/No