

226 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-672-2021

Date of Decision: 9th May, 2022

A, Juvenile in conflict with law (name withheld)

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ramandeep, Advocate for the revisionist-petitioner.
Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

AVNEESH JHINGAN, J (Oral):

1. This criminal revision petition is filed seeking bail for child in conflict with law (name withheld) in case of FIR No. 274, dated 31st October, 2018, under Sections 302, 323, 341, 506, 148 and 149 IPC, registered at Police Station Civil Lines, Patiala.

2. As per the case set up, FIR was got registered by Avtar Singh alleging that on 31st October, 2018, complainant along with his niece saw that boys armed with sticks, rods and sharp edged weapons were beating his nephew Gurpreet Singh @ Guri at the main gate of Multipurpose School. When Gurpreet Singh @ Guri made an attempt to run, one boy gave a blow with a sharp edged object on his back. Injuries were inflicted by the other accused also. Gurpreet Singh @ Guri lost his life during the treatment. The role attributed to the petitioner is that gave a blow with sharp edged object on the back of Gurpreet Singh.

3. Learned counsel for the petitioner challenges the impugned

orders denying the bail to the petitioner. Submission is that there is no basis for recording that the release of the petitioner would expose him to moral, physical or psychological danger. The contention is that in the impugned orders the exceptions given in Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'J.J. Act') have just been reproduced. He further submits that complainant has been examined.

4. Learned State counsel opposes the prayer for grant of regular bail and submits that petitioner has committed a heinous offence. He on instructions from ASI Balraj Singh is not in a position to dispute the fact that petitioner was declared juvenile.

5. Section 12 of the J.J. Act is reproduced:-

Bail to a person who is apparently a child alleged to be in conflict with law.

(1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the persons release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a

decision.

(2) When such person having been apprehended is not released on bail under subsection

(1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under subsection (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.

6. As per Section 12 of the J.J. Act, the general rule is bail and bail is to be denied only in cases falling under exceptions provided in the Section.

7. Considering that the petitioner is in custody since 2nd November, 2018, petitioner is entitled to benefit of Section 12 of J.J. Act , there was no material to bring the case within the ambit of exceptions provided in Section 12 of the J.J. Act and complainant has been examined, the criminal revision petition is allowed and the orders rejecting the bail and dismissing the appeal are set aside. The petitioner be released on bail subject to furnishing bail bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

8. The petition is allowed.

9. It is directed that parents of the petitioner shall regularly monitor the movement of the petitioner and also arrange for some counselling to the petitioner so as to ensure that he does not indulge into any such offence again.

10. However, it is clarified that nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

[AVNEESH JHINGAN]
JUDGE

9th May, 2022
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes |
| 2. Whether reportable | : | Yes |