

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1100-2022 (O&M)
Date of decision: 27.09.2022

Yash Verma

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Lekh Raj Nandal, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of the order dated 21.01.2022 passed by the Additional Sessions Judge, Rohtak, vide which the appeal filed by the petitioner under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, for grant of regular bail, has been dismissed.

Learned counsel for the petitioner, at the very outset, has relied upon the order dated 27.10.2021 passed in CRR-665-2021, vide which co-accused Nitin, who was also declared juvenile, along with the petitioner, was granted the concession of regular bail, by passing the following order: -

“Prayer in this revision petition is for setting aside the order dated

08.06.2021 passed by Juvenile Justice Board, Rohtak declining regular bail to the petitioner in FIR No.0064 dated 16.02.2021 under Sections 302, 34, 449 of the IPC, 1860 and Section 25 of the Arms Act (Sections 120-B, 148, 149 of the IPC and Section 27 of the Arms Act added later on) registered at Police Station Urban Estate, Rohtak, Haryana as well as the order dated 17.06.2021 passed by the Additional Sessions Judge, Rohtak vide which, the appeal was dismissed.

Learned counsel for the petitioner submits that the petitioner was declared a juvenile vide order dated 08.06.2021 passed by the Juvenile Justice Board, Rohtak during the pendency of the aforesaid FIR.

Learned counsel for the petitioner further submits that the petitioner is aged about 17 years and therefore, he will be governed by the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000.

Brief facts of the case are that the FIR was registered on a complainant given by Pushpender that his cousin brother namely Ravi had gone out for an outing to Chandigarh along with his friend namely Rahul two days prior to the date of incident. Later on, he received an information that Ravi has been murdered with a firearm injury lying at Sector-6 road near Paul Garden. When he reached on the spot, one Naveen disclosed him that Ravi had come alongwith his friend Rahul at his hotel at around 9:00 A.M. to stay

and at around 12:00 mid night, Rahul left the hotel and Ravi stayed in room No.206 of the hotel. Naveen was sleeping in his cabin and at around 3:00 A.M., three boys came in the hotel. One of them put his pistol on Naveen and the other two boys brought Ravi out from the room and then he heard the noise of firing. Thereafter, three boys ran away and when he came out, he saw the dead body of Ravi lying on the eastern edge of the road. The complainant further stated that Ravi has been murdered by some unknown persons due to some grudge and on that pretext, the FIR was registered.

Learned counsel for the petitioner further submits that thereafter, during investigation accused Yash @ Aman, Amit, Naveen, Rohit @ Vicky as well as the petitioner Nitin were arrested in this case and the petitioner was found to have conspired in commission of offence with his brother namely Deepanshu.

Learned counsel for the petitioner further submits that though as per the prosecution version, the petitioner, his father and Deepanshu has conspired to commit the murder of Ravi, however, there was no such occasion for meeting of mind of the three persons as the incident pertains to 16.02.2021, whereas, on 03.02.2021, the father of the petitioner has already issued a public notice in the newspaper disowning Deepanshu as on an earlier occasion he was involved in the FIR under Section 307 of the IPC

dated 30.01.2021, in which he had allegedly fired a shot at one Vishwas and the deceased Ravi was a witness to the said incidence.

Learned counsel for the petitioner further submits that the petitioner, who is a juvenile was never a party to the alleged conspiracy as set up by the prosecution.

Learned counsel for the petitioner further submits that as per the own disclosure of the petitioner which is relied upon by the prosecution, nothing has come on record that he actively participated in the plan to kill Ravi or was present at the place of occurrence.

Reply by way of an affidavit of the Deputy Superintendent of Police, Rohtak is on record. In the reply, after giving the details of the FIR and the investigation carried out, with regard to role of the petitioner it is submitted that the petitioner was arrested on 18.02.2021 and his disclosure was recorded. Similarly the disclosure of the other accused were also recorded in which, it has come that the petitioner was part of the conspiracy with his brother Deepanshu. It is also stated that the challan against the petitioner was filed before the Juvenile Justice Board, Rohtak on 17.05.2021 and there as 36 prosecution witnesses and none has been examined so far.

In reply, learned counsel for the petitioner submits that one of the accused namely Naveen has already been granted the

concession of regular bail by this Court vide order dated 29.07.2021 passed in CRM-M-24339-2021. A perusal of the order shows that Naveen was granted the concession of regular bail on the ground that the allegations against him was that he has given the information of the movement of Ravi to the co-accused.

Learned State counsel on a Court query could not dispute that the petitioner was not one of the three assailants, who have allegedly gone to the hotel and fired shot at Ravi.

Learned State counsel, on further query stated that as per the Social Investigation Report, it is found that the petitioner is not involved in any other case and his father is a retired Army personnel and his mother is a house wife and his family has no such criminal antecedents except his brother who is involved in 02 FIRs.

I have heard learned counsel for the parties.

Without commenting on the merits of the case and considering the allegations against the petitioner as well as the affidavit of the Deputy Superintendent of Police, Rohtak, I find that the primary allegations against the petitioner are of conspiracy under Section 120-B of the IPC and it will be a matter of trial that despite issuing public notice in the newspaper by the father of the petitioner disowning his own son Deepanshu, on account of his involvement in an earlier FIR dated 30.01.2021, can the petitioner be a part of conspiracy with his brother Deepanshu. Looking into

the age of the petitioner and the Social Investigation Report, I deem it appropriate to grant the concession of regular bail to the petitioner and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate/Juvenile Justice Board, concerned.

Accordingly, this revision petition is allowed and order dated 08.06.2021 passed by Juvenile Justice Board, Rohtak, as well as the order dated 17.06.2021 passed by the Additional Sessions Judge, Rohtak, are set aside.”

For the sake of brevity, facts are not reproduced again.

Learned counsel for the petitioner submits that the petitioner is in custody since 23.02.2021 and he has already been declared a juvenile.

Reply by way of affidavit of Deputy Superintendent of Police, Rohtak is on record. As per this affidavit, motive to commit the offence was that on 28.01.2021, a quarrel took place between Deepanshu @ Divya, Sangam, Saurabh, Ravi (since deceased) and Vishwas. Later on, Deepanshu @ Divya along with his friends went to house of Vishwas and fired and broken the household articles, for which an FIR No.48 dated 30.01.2021 under Sections 148, 149, 285, 452, 506, 307 IPC and Section 25/54/59 of Arms Act was registered at Police Station Shivaji Colony, Rohtak and deceased Ravi was a witness in this case. It is further stated that motive in committing murder of Ravi was that he was not allowing Vishwas to effect a compromise in the aforesaid FIR No.48.

The affidavit further states that the petitioner along with other accused was arrested in FIR No.20 dated 19.02.2021 under Sections 399, 401 IPC and Section 25/54/59 of Arms Act, registered at Police Station Bond, District Charkhi Dadri and he was taken on production warrants in this FIR and suffered a disclosure statement and got recovered a car bearing registration No.DL-8CL-7860. Similarly, disclosure statement of another juvenile/petitioner Yash Verma and Saurabh was recorded and thereafter, Sections 148, 149 & 34 IPC were added. It is also stated in the affidavit that even co-accused named the petitioner in their respective disclosure statements. In para No.6 of this affidavit, it is stated that juvenile Nitin hatched a criminal conspiracy with other accused in commission of offence.

In reply, learned counsel for the petitioner has submitted that the petitioner has been arrested for the conspiracy part and there is no direct evidence against him that he was involved in commission of murder of Ravi. It is further submitted that the petitioner is juvenile and is in long custody, therefore, he may be granted the concession of regular bail.

Learned State counsel, on instructions from SI Raj Kumar, could not dispute that the petitioner is in custody since 23.02.2021 and out of total 40 prosecution witnesses, 02 PWs have already been examined.

After hearing learned counsel for the parties, without commenting anything on merits of the case and considering aforesaid facts and circumstances of the case, this petition is allowed. The impugned order dated 21.01.2022 passed by the Additional Sessions Judge, Rohtak is set aside and the petitioner is directed to be released on regular bail subject to furnishing his

bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

27.09.2022
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No