

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-766-2021 (O & M)
Date of decision:18.07.2022

Ankit @ Pari

..... Petitioner

V/s

Union Territory, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Seema Pasricha, Advocate, for the petitioner.

Mr. Rajeev Anand, Add.P.P., U.T., Chandigarh.

JASJIT SINGH BEDI, J. (Oral)

The present revision petition has been filed impugning the judgment dated 22.07.2021 passed by the Additional Sessions Judge, Chandigarh and order dated 07.07.2021 passed by the Hon'ble Juvenile Justice Board, Chandigarh whereby the prayer of the petitioner to admit him on bail, has been dismissed.

The brief facts of the case leading to the registration of the FIR are that the statement of Sunny son of Om Parkash was recorded to the effect that on 29.03.2018, at about 9.10 p.m. at night, while he alongwith his brother Subhash were going towards their home and were near petrol pump, Sector 37, Chandigarh, one Tarsem, who came from the backside, abused them and asked them to stop. Tarsem threatened him (Sunny) and stated that he would kill him. They returned to their homes that night. On 30.03.2018,

Aman were going towards their home and were near the house of Anil Pradhan, then they saw 5/6 boys approaching them. He could identify Tarsem and one Pari (the present petitioner) whereas he did not know the names of other boys. As soon as the boys reached near them, then Tarsem gave a knife blow on the left side of abdomen of his brother-in-law Aman and Pari gave blow on the right side of his (Sunny's) abdomen with a knife. On raising a noise, the other boys fled away from the spot. They were taken to the hospital where Aman, his (Sunny's) brother-in-law, succumbed to his injuries.

The learned counsel for the petitioner (Ankit @ Pari) *inter alia* contends that he being a juvenile (though being tried as an adult) is in custody for the last approximately 04 years and 03 months and his co-accused, namely Sommy has been granted the concession of regular bail by this Court vide order dated 28.06.2021 (Annexure P-5). Similarly, Tarsem, the other main accused has also been granted the concession of regular bail vide the same order. She contends that the Courts below have failed to appreciate the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000, in its proper perspective. The Lower Appellate Court observed that in case the appellant is directed to be admitted to bail, there is every apprehension of his associating with the co-accused, which would expose him to cruel, physical or psychological harm. She contends that that this conclusion could not have been reached by the Lower Appellate Court without reference to any material in that regard. She further contends that the statement of the complainant has been recorded in which quite interestingly, he has denied his FIR version and excluded Tarsem

which makes the entire prosecution case doubtful. She, thus, prays that the petitioner be granted the concession of regular bail on account of the period of custody undergone by him as also the fact that the co-accused of the petitioner have since been granted the same concession.

The learned Additional Public Prosecutor for U.T., Chandigarh, has submitted that the prosecution evidence is nearly over, and therefore, the petitioner does not deserve the concession of bail. He, however, fairly admits that the co-accused of the petitioner have been granted the concession of regular bail by this Court. In fact, Sommy and the present petitioner-Ankit alias Pari are similarly situated as per the deposition of the complainant (Annexure P-6).

I have heard the learned counsel for both the parties.

Admittedly, the petitioner is a juvenile though he is being tried as an adult. He has been in custody for more than four years and 03 months. Similarly, situated co-accused of the petitioner, namely, Sommy has been granted the concession of bail by this Court. Tarsem, another co-accused, who has been duly named as one of the main accused in the FIR has however, not been named as an assailant by the complainant while deposing in the Trial Court has also been granted the concession of bail. It would be a moot point during trial as to the veracity of the different statements of the complainant.

In view of the above, keeping in view the period of custody undergone by the accused and the fact that the co-accused have been granted the concession of bail, the further custody of the petitioner is not required.

Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Ankit @ Pari, is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

(JASJIT SINGH BEDI)
JUDGE

July 18, 2022
sukhpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No