

222
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-793-2021
Date of Decision: 01.08.2022

Vishal

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ramnish Puri, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryanas

JASGURPREET SINGH PURI, J. (Oral)

The present revision petition has been filed by assailing the orders passed by the learned Principal Magistrate, Juvenile Justice Board, Sonipat dated 13.05.2021 vide which the bail application filed by the petitioner-juvenile was dismissed and also the judgment dated 26.05.2021 passed by the learned Additional Sessions Judge, Sonipat vide which the appeal of the petitioner was also dismissed.

It has been submitted by the learned counsel for the petitioner that the petitioner who is a child in conflict with law is in custody from 30.01.2021 which is more than 1 ½ years and he was not named in the FIR but after a period of six days the complainant made a supplementary statement before the police and he named a number of other accused including the petitioner. He further submitted that the petitioner is a student

and he is not at all involved in the present case nor he has got any other criminal antecedents. He further submitted that he was implicated only on the ground that he was already involved in one case in Delhi in which he has already been discharged and even cognizance was not taken by the Court. He further submitted that be that as it may be, the petitioner has various safeguards and rights under the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, bail is to be granted as a general principle and the same can be denied in case of extra ordinary circumstances and in case it falls under the parameters of proviso to Section 12 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2015. He further submitted that in the present case, the petitioner has got clean antecedents and he is a child in conflict with law. He further submitted that as per the Social Investigation Report which has been attached alongwith the reply filed by the State, there is nothing adverse against the petitioner. However, in the concluding part it has been stated that one year ago he had started going to one Akhada where he came to know some children and developed friendship and thereafter, the offence was committed. The learned counsel further submitted that such kind of report cannot become a ground for denial of bail unless the child in conflict with law has such bad precedents or the Court records a satisfaction on the basis of material available on the record that in case he is released on bail, then there is likelihood that he can again mingle up with bad elements and that a person's release would defeat the ends of justice. He further submitted that both the learned Courts below i.e. the learned Juvenile Justice Board as well as the learned Appellate Court have not

recorded any such kind of satisfaction nor there was any material available with them and therefore, the petitioner who is child in conflict with law has statutory right available to him under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. He further submitted that the petitioner is facing incarceration for more than 1 ½ years and therefore, in view of the spirit of the Act especially Section 12 of the Act, he may be considered for the grant of bail and has prayed that the impugned orders may be set aside.

Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has stated that it is correct that the petitioner who is child in conflict with law is in custody for more than 1 ½ years. He further submitted that in the present case, charges have not been framed till date. He has however stated that as per the Social Investigation report the petitioner knew the other co-accused.

I have heard the learned counsel for the parties and has also perused the impugned orders passed by the learned Juvenile Justice Board as well as the learned Appellate Court.

Whenever there is a child in conflict with law, then there are Statutory protections available to him under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 including grant of bail. A bail can be denied only when there are extreme circumstances as provided in proviso to Section 12(1) wherein the Court is satisfied on the basis of material available. Otherwise departure from the rule of bail cannot be made either by the Juvenile Justice Board or by the Appellate Court. The mere fact that it has been stated in the Social Investigation report that the petitioner knew some of the other persons of Akhada cannot invite any

inference in the present case. This Court is of the view that neither the Juvenile Justice Board nor the Appellate Court have placed their decision on the basis of any cogent and reasonable ground and therefore, the petitioner is entitled for the grant of bail which was a statutory right available to the petitioner.

Consequently, the present petition is allowed. The order dated 13.05.2021 passed by the learned Principal Magistrate, Juvenile Justice Board, Sonipat and the judgment dated 26.05.2021 passed by the learned Additional Sessions Judge, Sonipat are set aside. The petitioner shall be released on bail subject to furnishing bail bonds/surety to the satisfaction of the learned Principal Magistrate, Juvenile Justice Board/Chief Judicial Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

01.08.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

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