

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.280

CRR-953-2021

Date of decision: 14.07.2022

Yogesh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Wazir Singh, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

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DEEPAK SIBAL, J. (Oral)

Through the present petition challenge is made to the order dated 09.04.2021 passed by the Principal Magistrate Juvenile Justice Board, Rewari (for short – the Board) through which the petitioner's plea for grant of bail has been rejected. Also under challenge is the order dated 24.05.2021 passed by the Additional Sessions Judge, Rewari (for short – the Appellate Court) through which the appeal filed by the petitioner against the aforesaid order of the Board was dismissed.

The complainant filed a complaint with the police as per which the victim was one of his daughters, who was aged 12 years; when the victim was alone in the house the petitioner, alongwith co-accused 'M' and 'S' after enticing her took her to a park in Sector-6, Rewari where all of them raped her; the incident took place at about 3/4 p.m. and was narrated by the victim to the complainant.

On the basis of the above complaint, the police registered an FIR and after arresting the petitioner and his co-accused investigated the

matter. Such investigation resulted in the filing of a report by the police under Section 173 Cr.P.C. on the basis whereof, the Trial Court framed charges against the petitioner and his co-accused to face trial under Section 6 of the Protection of Children from Sexual Offences Act, 2012.

Learned counsel for the petitioner submits that all the three accused in the case are juveniles; the case of the prosecution qua each of the accused is identical; through order dated 05.07.2022, the Appellate Court has granted regular bail to co-accused – 'M' and through order dated 11.07.2022, the Board has granted regular bail to the other co-accused – 'S'; the allegations against the petitioner are identical to those against co-accused 'M' and 'S'; thus, on the ground of parity the petitioner also deserves to be granted the same relief as his similarly placed co-accused; the petitioner is in custody since 04.12.2020; there is no other criminal case pending against him; investigation in the case is complete; the entire case of the prosecution is apparently false as there is no injury has been found on the victim's person and that further incarceration of the petitioner, who was just 14 years of age at the time of the alleged incident is unwarranted.

Learned State counsel opposes the grant of bail to the petitioner on the ground that he has committed a heinous offence but very fairly does not dispute the fact that the role attributed to the petitioner is the same as his co-accused – 'M' and 'S' who have been granted bail by the Appellate Court and Board respectively.

The petitioner alongwith his co-accused 'M' and 'S' is alleged to have raped the victim. The Appellate Court has granted regular bail to 'M' whereas the Board through its order dated 11.07.2022 has granted the same relief to co-accused 'S'. The State admits that the role attributed to each of

the accused is similar. The alleged victim's medical report does not reveal any injury on her person. No semen has also been detected from the samples and slides taken from the alleged victim's vulva and rectal secretions.

In the light of the above and because the petitioner is in custody for the last over 1½ years as also because he was 14 years of age when the alleged incident took place, this Court is of the opinion that the present case is considered to be a fit one in which the petitioner be directed to be released on regular bail. Resultantly, the impugned orders are set aside and the petitioner is directed to be released on bail subject to the satisfaction of Principal Magistrate Juvenile Justice Board, Rewari.

The present petition is allowed in the above terms.

July 14, 2022
Jyoti 1

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No