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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No.1103 of 2021 (O&M)
Date of Decision: 24.02.2022

Jai Parkash Kumar

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Arjun Veer Sharama, Advocate for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab

JASGURPREET SINGH PURI, J. (Oral)

CRM-35638-2021

The present application has been filed for placing on record copies of Social Investigation Report and Social Background Report as Annexure P-4.

For the reasons mentioned in the application, the same is allowed and Annexure P-4 is taken on record subject to just exceptions.

Main case

The present is a revision petition filed by impugning the judgment dated 10.09.2021 passed by the learned Appellate Court of Additional Sessions Judge, Ludhiana and also order dated 19.08.2021 passed by the learned Principal Judge, Juvenile Justice Board, Ludhiana whereby

the prayer for the grant of bail to the petitioner has been rejected.

As per the allegations contained in FIR No.5 dated 09.01.2021, a secret information was received by the police that the petitioner alongwith other co-accused namely Shukar Singh who were habitual of selling intoxicant substances, they are having one plastic bag on their motorcycle bearing No.PB-29-AA-5557 Honda black colour and were coming towards City Ludhiana from Village Hambran and there is heavy quantity of Charas in the abovesaid plastic bag and they are going to sell the abovesaid Charas to their clients. Both these persons were apprehended by the police and they disclosed their names as Parkash Kumar (petitioner) and Shukar Singh and thereafter, there was a recovery of 13 Kg. 800 gm. of Charas which was a huge quantity.

The petitioner was declared as juvenile and thereafter, he filed an application before the Juvenile Justice Board, Ludhiana for grant of bail. However, the same was declined on 19.08.2021 and thereafter, the petitioner preferred an appeal before the Additional Sessions Judge, Ludhiana which was also dismissed on 10.09.2021. Thereafter, the present revision has been filed impugning the aforesaid two judgments whereby the bail has been denied to the petitioner.

Mr. Arjunveer Sharma, Advocate appearing on behalf of the petitioner has submitted that both the judgments passed by the learned Courts are erroneous and they are liable to be set aside on the ground that the grant of bail is a statutory right available to the petitioner being a juvenile under Section 12 of the Juvenile Justice (Care & Protection of Children) Act, 2015 and denial of bail can be done only in special circumstances and in exceptional cases only. He further submitted that both

the Courts below have only considered the Social Background Report which was prepared by the police and arrived at a conclusion that there is a likelihood that the petitioner will get into association of known and hardened criminals and would ultimately defeat the ends of justice. However, the Social Investigation Report prepared by the authority was not considered in true perspective. He further submitted that the petitioner deserves to be released on bail unless there were so special and exceptional circumstances which are not present in the present case and, therefore, the petitioner is entitled for protection under the statute i.e. Section 12 Juvenile Justice (Care & Protection of Children) Act, 2015 .

On the other hand, Mr. R.S. Thind, learned Deputy Advocate General, Punjab has submitted that there is no perversity or error in the impugned judgments and both the Courts below have discussed the Social Background Report as well as Social Investigation Report (Annexure P-4) in detail and, thereafter came to the conclusion that the petitioner was not entitled for the grant of bail.

I have heard the learned counsel for the parties.

Section 12 (1) Juvenile Justice (Care & Protection of Children) Act, 2015 provides that whenever a person is apparently a child and there is an allegation that he has committed a bailable or non-bailable offence, then notwithstanding anything contained in Cr.P.C or any other law for the time being in force should 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. However, an exception has been carved out to the aforesaid general rule in the form of a proviso. As per the proviso, it has been 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 more, physical and psychological danger or the person's 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.

A perusal of the orders passed by the learned Juvenile Justice Board, Ludhiana would show that it has been discussed in detail as to whether the present case falls within the aforesaid exception or not. For the purpose of determining the same, the Social Investigation Report was also called from the Legal-cum-Probation Officer. The learned Board referred to the quantum of confiscated quantity of 13 Kg. 800 gm. of Charas which was allegedly recovered from the petitioner and it was observed by the Board that such huge possession of Charas is not possible without the help of any experienced or known criminal in this trade and it points out towards the association of the petitioner with other experienced criminals. Furthermore, there are many chances that the petitioner can be easily lured into dangerous company of people who sell drugs without any fear of law and, therefore, the petitioner can well be exposed to dangerous and hardened criminals and, therefore, the release of the petitioner on bail would certainly expose him to moral, physical or psychological danger as well as he would become habitually involved in such like criminal activities without being reformed and thus his overall development can be hampered. The assessment as per the statutory provisions of Section 15 of the Juvenile Justice (Care & Protection of Children) Act, 2015 also commenced to assess his mental and physical capacity to commit the offence and the nature and consequences of the offence allegedly committed by him but for the

purpose of considering the grant of bail to the petitioner, the various factors are required to be considered as per Section 12 of the Juvenile Justice (Care & Protection of Children) Act, 2015. The learned Juvenile Justice Board came to the conclusion after detailed discussion that there is every likelihood that the release of a juvenile on bail would bring into association with known/hardened criminals and there are many chances that in case he is granted bail at this stage, then his release would defeat the ends of justice and there is a possibility of the said act being repeated if not checked at this juncture besides being harmful to the moral, physical and psychological interest of the petitioner.

In appeal, the learned Additional Sessions Judge, Ludhiana also discussed the various judgments of the Hon'ble Supreme Court and also the facts and circumstances of the present case in detail. The learned Additional Sessions Judge also referred to the Social Investigation Report as well as the Social Background Report and observed that a careful perusal of the Social Background Report reflects that petitioner is habitual of smoking, alcohol, gambling and consuming drugs and also begging. Apart from the above, the Social Investigation Report was also discussed which reflects that the petitioner does not go to the school and his parents are in other State i.e. Bihar and he is victim of offence. Apart from the same, the petitioner has been used by gangs or group of adults for drug paddling and the petitioner has tendency to run away from home and he is also influenced by 'Peer' group for committing alleged offence. It was observed by the learned Additional Sessions Judge that in view of the facts and circumstances reasonable grounds exist for believing that if the petitioner is released on bail, then there is every likelihood that the child-in-conflict with law would

be exposed to dangerous and known criminals dealing in drugs and the present case falls within the exception carved out in proviso to Section 12(1) of the Juvenile Justice (Care & Protection of Children) Act, 2015.

The petitioner has also placed on record the Social Investigation Report vide Annexure P-4 which has been perused by this Court. Both the Courts below have discussed in detail both the Social Investigation Report as well as Social Background Report wherein they came to a positive conclusion that in case the petitioner who is a child-in-conflict with law is released on bail, then he will be exposed to hardened and dangerous criminals which was supported from the fact that the alleged recovery from the petitioner was huge i.e. 13 Kg. 800 gm. of Charas. The background of the petitioner as per the Social Background Report also suggested the same thing. This Court does not find any illegality or perversity in the orders passed by both the Courts below wherein a satisfaction has been recorded by both the Courts that it was not a fit case for the grant of bail and the case of the petitioner was governed by the proviso to Section 12(1) of the Juvenile Justice (Care & Protection of Children) Act, 2015.

Therefore, finding no merits in the present revision petition, the same is hereby dismissed.

24.02.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)**JUDGE**

: Yes/No
: Yes/No