

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

CRR-1320-2021 (O&M)
Date of Decision:- **18.1.2022**

JASSI SINGH @ JASSI (MINOR) THROUGH HIS FATHER

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Suresh K. Singla, Advocate
for the petitioner.

Mr. B.S. Sewak, Addl. A.G. Punjab.

KARAMJIT SINGH, J. (Oral)

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

Instant criminal-revision has been filed challenging the order
30.7.2021 passed by Principal Magistrate, Juvenile Justice Board, Bathinda
and order dated 29.9.2021 passed by learned Additional Sessions Judge,
Bathinda, whereby the prayer of the petitioner for grant of regular bail in
criminal case having FIR No.90 dated 29.5.2021 under Sections 377, 120-
B/34 IPC and under Sections 3 & 4 of Protection of Children from Sexual

Offences Act, 2012 registered at Police Station Talwandi Sabo, District Bathinda, was declined.

The counsel for the petitioner contended that the petitioner was falsely implicated in this case. It is further contended that there are allegations against the petitioner that he committed unnatural sex with the victim on 27.5.2021. It is further contended that report of FSL in this regard is still awaited. The petitioner, who is juvenile is in custody since 1st June, 2021. The counsel for the petitioner made prayer for grant of regular bail to the petitioner.

The present petition has been contested by the State counsel who submitted that the petitioner is facing grave charges as he committed unnatural sex with victim who was aged about 6 years. It is further contended that trial is yet to begin and the State counsel further submitted that the present revision-petition deserves to be dismissed.

I have considered the submissions made by the counsel for the parties.

As per allegations in the FIR, the petitioner committed unnatural sex with minor victim. The petitioner was arrested in this case and as per State counsel he is in custody since 1st June, 2021. Admittedly, the petitioner at present is aged about 17 years and the report of FSL is still awaited.

Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short 'Act of 2015') reads as follows:-

- (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, 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: 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 moral, physical or 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.
- (2) When such person having been apprehended is not released on bail under subsection (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.
- (3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order
- (4) When a child in conflict with law is unable to fulfill the conditions of bail order within seven days of the bail order,

such child shall be produced before the Board for
modification of the conditions of bail

During arguments, the State counsel failed to establish that the case of the petitioner is covered under the aforesaid exceptions carved out in Section 12 of the Act of 2015. Thus as per the provisions of Section 12(1) of Act of 2015, the petitioner being in conflict with law is entitled to be released on bail. Consequently, present revision-petition is allowed and the impugned orders are hereby set aside and petitioner is directed to be released on bail subject to furnishing requisite bail/surety bonds by his father Gurdeep Singh @ Kala Singh to the satisfaction of CJM / Duty Magistrate concerned. The father of the petitioner shall also furnish an undertaking to ensure the presence of the petitioner before the Court / Board concerned on the dates fixed in inquiry proceedings.

18.1.2022
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No