

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

126

CRM-M-2676-2023

Date of Decision : 17.02.2023

Maan Singh @ Tinku

..... Petitioner

Versus

State of UT Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Manjot Singh Gujral, Advocate
for the petitioner.

Ms. Roopse Sharma, Advocate for
Mr. Anil Kumar Lamdharia, Addl.P.P.
for U.T.Chandigarh.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition is seeking setting aside of order dated 01.12.2022 whereby Judge, Fast Track Court, Chandigarh has turned down the plea of juvenility raised by the petitioner.

The brief facts emerging from the record are that an FIR No. 78 came to be registered against the petitioner on 06.04.2004 under Sections 360, 366-A and 376 of IPC at Police Station Manimajra, Chandigarh. The petitioner absconded and was declared proclaimed offender. The police could apprehend the petitioner after a period of more than 17 years and produced before the trial Court. The petitioner pleaded before the trial Court that he was juvenile at the time of alleged incident. The trial Court vide order dated 01.12.2022 dismissed the application of the petitioner.

Learned counsel for the petitioner *inter alia* contends that the trial Court has wrongly relied upon report of Investigating Officer and record of Village Development Officer, however, the petitioner was juvenile at the time of alleged offence.

Learned State counsel contends that the conduct of the petitioner itself speaks volume. He remained absconding for 17 years. At this stage, it would not be either possible or fruitful to carry out roving age determination enquiry to determine the question of juvenility.

I have heard the arguments of learned counsel for the parties and perused the record.

From the perusal of record, it is quite evident that FIR was registered on 06.04.2004 and the petitioner could not be arrested for more than 17 years. The petitioner after his arrest has raised question of juvenility. The trial Court called for the report and as per report of Investigating Officer and record of Village Development Officer, the year of birth of the petitioner is found 1981 and the alleged offence was committed in 2004, thus, he was not juvenile. The petitioner has right to raise question of juvenility at any stage, however, the juvenility test at belated stage cannot be conclusive to determine him as juvenile on the date of alleged incident and a person, who has remained absconding for more than 17 years cannot claim this right at this belated stage. At this stage, it is very difficult though not impossible to determine the question of juvenility by way of medical tests. The Investigating Officer has prepared report on the basis of record of the village Development Officer. The Aadhar Card on which the petitioner is relying upon was prepared after 2009 because Government of India launched scheme of Aadhar in the year 2009, whereas

alleged offence was committed in 2004, thus, a document prepared after the commission of alleged offence cannot be relied upon.

Findings no merits, the present petition is dismissed.

(JAGMOHAN BANSAL)
JUDGE

17.02.2023
anju

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>