

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

207

**CRR No. 286 of 2022
Date of Decision : 4.1.2023**

Alok (Juvenile) through his father Ram Chander

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

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

Ms. Ankita Ahuja, AAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

1. This is a revision petition challenging the order dated 29.6.2021 passed by the Principal Magistrate, Juvenile Justice Board, Jind, and the order dated 7.7.2021 passed by the Additional Sessions Judge, Fast Track, Special Court, POCSO, Jind, whereby the petitioner/juvenile in conflict with law was declined bail in case FIR No.31 dated 14.3.2021 under Sections 376(3) IPC and 6 of POCSO Act, registered at Police Station Women, District Jind.

2. The petitioner undisputedly is a juvenile as he was born on 19.11.2006. Grant of bail to juveniles is governed by provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000, which reads as under:

12. Bail of juvenile.—

(1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety 1[or placed under the supervision of a Probation Officer or under the

care of any fit institution of fit person] but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.

A reading of the provision makes it apparent that a juvenile in conflict with law is entitled to grant of bail irrespective of the nature or gravity of the offence alleged to have been committed by him. Bail can only be declined when there are reasonable grounds for believing that his release is likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger, or that his release would defeat the ends of justice.

3. A perusal of the impugned orders show that the ground for declining bail to the petitioner/juvenile in conflict with law is, he allegedly misused his relationship with younger sister in the absence of their mother. The victim, his younger sister, has even given birth to a child whose blood sample has been sent for DNA examination. An apprehension has also been expressed that release of the juvenile on bail would lead to his staying in the same house where the victim/complainant is residing.

4. Therefore, relevant provisions to decline bail as contained in Section 12 of the Act were not considered while passing the impugned orders.

There is no material on record to establish that on being released from custody

the petitioner/juvenile in conflict with law is likely to come in association with any known criminal or will be exposed to any moral, physical or psychological danger. It is also not the case that his release would defeat the ends of justice. The petitioner's case, accordingly, does not fall in any of the exceptions carved out under Section 12 of the Act for declining bail to a juvenile in conflict with law, and he becomes entitled to grant of the same.

5. Further, the petitioner's father has filed an affidavit, dated 2.8.2022, to the effect that he and his family members will not allow the juvenile in conflict with law to reside at their residence along with the victim.

6. In view of the aforesaid, without going into the merits of the case, the present revision petition is allowed. The order dated 29.6.2021 passed by the Principal Magistrate, Juvenile Justice Board, Jind, as also the order dated 7.7.2021 passed by the Additional Sessions Judge, Fast Track, Special Court, POCSO, Jind, are set aside, and petitioner/juvenile in conflict with law is ordered to be released on bail subject to his furnishing of adequate bail/surety bonds to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Jind.

7. It is further ordered that the Deputy Commissioner, Jind, shall place the petitioner under supervision of a Probation Officer at Jind during the enquiry before the Board, who shall also ensure that in compliance of the undertaking given to this Court by way of affidavit dated 2.8.2022, the petitioner stays separately from the victim.

(TRIBHUVAN DAHIYA)
JUDGE

4.1.2023

Ashwani

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No