

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

110+223

CRM-17015-2023 in/and

CRR-720-2023

Date of decision: 19.04.2023

Amit alias Mitta

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Dilpreet Singh Gandhi, Advocate
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

MANJARI NEHRU KAUL, J. (ORAL)

CRM-17015-2023

1. For the reasons mentioned in the application, the same is allowed and copies of FIR No.249 dated 06.03.2022 and order dated 21.09.2022 are taken on record as Annexures P-2 and P-3 respectively subject to all just exceptions.

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2. The petitioner, who is a juvenile, is seeking setting aside of the order dated 01.03.2023 passed by learned Additional Sessions Judge, Hisar whereby he has been declined the benefit of regular bail in case FIR No.349 dated 29.03.2022 under Sections 394 and 397 of the IPC and Section 25 of the Arms Act, 1959 registered at Police Station Barwala, District Hisar.

3. Learned counsel for the petitioner at the outset while drawing the attention of this Court to the deposition of all the 03

material witnesses (Annexure P-3) has submitted that a perusal of the same clearly reveals that while stepping into the witness box, all the aforementioned witnesses had failed to support the case of the prosecution as a result of which they were declared hostile. Learned counsel, thus, submits that since the material witnesses have not supported the case of the prosecution and 18 prosecution witnesses remain to be examined, further incarceration of the petitioner who has now been in custody for more than a year having been arrested on 31.03.2022, would serve no useful purpose.

4. Status report by way of affidavit of of Rohtash Singh, HPS, Deputy Superintendent of Police, Barwala, District Hisar, on behalf of the respondent-State has been filed in the Court today which is taken on record subject to all just exceptions.

5. Learned State counsel while opposing the prayer made by the counsel opposite, has not been able to controvert that all the 03 material witnesses had failed to support the case of the prosecution during trial. However, he has submitted that there was documentary evidence in the form of CCTV footage wherein the petitioner could be seen accompanying the co-accused to the shop of the complainant and thereafter at gun point all the accused had looted ₹1 lakh along with gold and silvery jewellery. It has also been submitted that during the occurrence in question a neighbour of the complainant had been fired at and had received a gun shot injury. Learned State counsel, however, has conceded that the said witness, who had received the gun shot injury too had been declared hostile during the trial. Learned State counsel has

also contended that no doubt the petitioner is a juvenile and all the material witnesses have turned hostile, however, in case he is released on bail there could be a likelihood of the petitioner misusing the concession of bail, hence, stringent conditions be imposed upon him.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. As per the social investigation report, which has been filed along with status report today, on their visit to the house of the petitioner it came to be revealed that his parents are illiterate and belong to the weaker section of the society, hence his involvement with the co-accused could have been due to “peer group influence”. The petitioner is admittedly a juvenile and has been in custody since 31.03.2022. All the material witnesses stand examined and 18 prosecution witnesses remain to be examined, hence, there is no likelihood of the trial concluding in the near future. This Court, in the aforesaid facts and circumstances, deems it fit to extend the concession of bail to the petitioner.

8. Accordingly, the instant revision petition is allowed and the impugned order is set aside. However, taking into consideration the vulnerable age of the petitioner, this Court deems it fit to enlarge him on bail subject to the satisfaction of learned Children Court/Duty Magistrate, Hisar along with following conditions:

- i) The parents of the petitioner shall ensure that he does not come in association with a person of criminal antecedents and is not exposed to any physical, moral and psychological danger.

- ii) The parents of the petitioner shall file an affidavit to this effect before the Children Court/ Duty Magistrate, Hisar.
- iii) They shall take good care of the petitioner and adhere to the above mentioned conditions, failing which, the prosecution would be at liberty to approach this Court for cancellation of bail granted to the petitioner.

19.04.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No