

2023:PHHC:085933

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

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CRR-1409-2023**Date of Decision: 07.07.2023****LXXXX****..... Petitioner**

versus

STATE OF HARYANA**..... Respondents****CORAM: HON'BLE MR. JUSTICE ARUN MONGA**

Present: Mr. Indresh Upadhyay, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

ARUN MONGA, J (ORAL)

1. A 17 years old juvenile, in conflict with law, is before this court, challenging an order dated 10.02.2023 passed by learned Juvenile Justice Board, Gurugram declining him on bail in case FIR No. 2073 dated 06.12.2022 registered under Sections 392, 394, 397 IPC and Section 25(1 b) and 27 of Arms Act, Police Station Shivaji Nagar, Gurugram. Appellate order dated 27.04.2023 passed by learned Additional Sessions Judge, Gurugram dismissing his appeal against order dated 10.02.23 is also under challenge.

2. Learned counsel appearing for petitioner submits that the juvenile was neither named in the FIR nor any overt act has been attributed to him. According to him, nothing has been recovered at the instance of petitioner. Yet, the petitioner is in custody since 20.12.2022. There is/was no material to show that release of petitioner is likely to result in his association with any known criminal or that his release will expose him to moral, physical or psychological danger or his release would defeat the ends of justice. He further submits that petitioner is a student. He has no other criminal antecedents. According to him, none out of 30 witnesses have been examined so far and there is no likelihood of conclusion of trial in near future. Counsel relies on decisions of this Court in

CRR-4584 of 2017(Neha Vs. State of Punjab), decided on 19.02.2018, CRR-5030 of

2015(Gaurav Vs. State of Haryana), decided on 02.03.2016 and CRR-474 of 2016(Arvinder Singh @ Ravinder Singh Vs. State of Punjab), decided on 11.02.2016.

3. On the other hand, learned State counsel has supported the impugned orders passed by the Courts below. According to him, it was rightly observed that release of petitioner will expose him to moral, physical or psychological danger or his release would defeat the ends of justice.

4. Having heard learned counsel for the parties and on perusal of records of the case, I am of the view that impugned orders are not sustainable and are liable to be set aside. Petitioner was a student of Class 10 when the occurrence took place. It is not in dispute that he is not involved in any other case.

4.1. It is no more *res-integra* that gravity of offence *per se* ought not to weigh in the mind of court/board while granting bail to a juvenile. The object of Juvenile Justice Act is to provide care, protection, development and rehabilitation of neglected and delinquent juveniles. Though, the Courts below have given reason that if the petitioner is released on bail, it will expose him to moral, physical or psychological danger or his release would defeat the ends of justice, but no such material has been referred while arriving at a conclusion. In the case of juvenile, the Court must satisfy requirements of Section 12(1) of the Juvenile Justice Act. In the present case, without any cogent material on being record, bail has been declined.

4.2. That aside, the petitioner was not named in the FIR and was arrested subsequently on 20.12.2022. Trial is going on at a snail pace. Out of 30 witnesses, none has been examined so far and there is no likelihood of trial being concluded any time soon in near future.

5. In the overall scenario, impugned orders dated 27.04.2023 and 06.12.2022 are set aside. Petitioner is released on bail subject to furnishing bail/surety bonds to the satisfaction of Principal Magistrate, Juvenile Justice Board/Chief Judicial Magistrate on the following terms:-

(i) *The petitioner is placed under supervision of the Probationary Officer, who shall file periodical reports in respect of juvenile before the Board till the inquiry*

- (ii) *The father/ guardian of the petitioner shall stand as a surety for release of the petitioner on bail. He shall execute a bond for Rs.50,000/- with undertaking of maintaining good conduct of juvenile and also in keeping him away from associating with criminals while he continues to be on bail in the present proceedings*
- (iii) *The petitioner and his father/ guardian shall report before the Juvenile Justice Board as and when directed without default till the proceedings are over.*
- (iv) *In the event of any adverse report filed against the juvenile by the Probationary Officer or on any default or violation of the conditions imposed above, it is open to the Juvenile Justice Board to revoke the bail granted to the petitioner without having any further orders from this Court.*

Petition stands disposed of.

6. It is made clear that any observations and/or submissions noted herein above shall not have any effect on merits of the case as the same are for the limited purpose of hearing the instant bail petition alone and learned Trial Court shall proceed without being influenced with this order.

7. Pending application(s), if any, shall also stand disposed of.

07.07.2023
manoj/neelam

(ARUN MONGA)
JUDGE

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