

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

224

CRR No.1528 of 2022 (O&M)
DATE OF DECISION: 04th OCTOBER, 2023

Mobin @ Binnu

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Harsh Mehla, Advocate
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

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RAJBIR SEHRAWAT, J. (Oral)

CRM-29320-2023

This is an application for placing on record the zimini orders passed by the trial Court from 11.01.2023 to 19.05.2023.

For the reasons mentioned in the application, the same is allowed. Zimini orders passed by the trial Court from 11.01.2023 to 19.05.2023 are taken on record.

Main Case

1. The present petition has been filed by the petitioner against the order dated 13.07.2022 passed by the Additional Sessions Judge (Children's Court), vide which the petitioner's application for regular bail under Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, the Act) has been dismissed.

2. It is submitted by the counsel for the petitioner that the case against the petitioner is totally concocted and fabricated. The petitioner is not involved in the crime at all. To involve the petitioner in the alleged crime, the prosecution has fabricated only the disclosure statement of the petitioner. Beside that disclosure statement, there is nothing against the petitioner collected by the prosecution during the investigation. It is further submitted by learned counsel for the petitioner that undisputedly the petitioner was juvenile on the date of commission of alleged offence. Therefore, the petitioner cannot be kept in custody in terms of mandate of Section 12 of the Act. Although, the Juvenile Justice Board had assessed and recommended the trial of the petitioner to be conducted as an adult, however, the aspect of bail would still be governed by the provisions of Juvenile Justice Act. Learned counsel for the petitioner has relied upon the judgment passed by a co-ordinate Bench of this Court in the case of ***Vicky Versus State of U.T. Chandigarh, CRM-M-21388 of 2020, decided on 31.08.2020***, in that regard. Hence, it is submitted that the petitioner deserves to be granted bail pending trial.

3. On the other hand, learned State Counsel, being instructed by SI Ram Samujh, has submitted that the petitioner is sole accused in this case. There has been material to connect the petitioner with the deceased because both of them were having telephonic interaction. It is further submitted that even the motorcycle of the deceased was recovered on his disclosure statement. Therefore, the petitioner does not deserve to be granted bail pending trial.

4. Having heard learned counsel for the parties and having perused the case file, this Court finds that the fact that petitioner was

juvenile on the date of commission of alleged crime is not disputed. Therefore, the aspect of bail would be governed by Section 12 of the Act. This has been so held by a co-ordinate Bench of this Court in the case of *Vicky (supra)*.

5. In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed and the order dated 13.07.2022 passed by the Additional Sessions Judge (Children’s Court) is set aside. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

04th OCTOBER, 2023
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

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