

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

103 CRM-M-45406-2022 (O&M)
Date of Decision: 25.05.2023

Azad alias IsmailPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE B.S.WALIA
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Manish Soni, Advocate
for the petitioner.

Mr. Surender Singh Pannu, Addl. A.G. Haryana.

B.S.Walia, J. (Oral)

CRM-15667-2023

Application is for extension of time for complying with order dated
17.02.2023 passed by this Court in CRM-M-45406-2022.

In view of order dated 24.04.2023 noticing that report dated
10.04.2023 had been received from the learned Sessions Judge-cum-Enquiry
Officer, Nuh, and adjourning the case on request of counsel for the applicant to
enable him to go over the report, the application is allowed and report taken on
record. On request of learned counsel for the parties, the main case is taken on
board for hearing today itself.

Main Case

Prayer in the petition under Section 482 Cr.P.C. was for seeking inquiry to determine the age of the petitioner namely Azad @ Ismail son of Rahis, resident of Kasba Kot Kadar, Police Station Raipur, District Bijnaur, Uttar Pradesh, as contemplated under the Juvenile Justice (Care and Protection of Children) Act, 2000, for declaring him as juvenile in conflict with law.

2. Admittedly, the petitioner was convicted in case FIR No. 898 dated 15.12. 2014 for the commission of offences under Sections 120-B, 326-A and 452 IPC, registered at Police Station Palam Vihar, Gurgaon vide judgment of conviction dated 30.01.2017 and order on quantum of sentence dated 08.02.2017 passed by the learned Additional Sessions Judge, Gurugram.

3. CRA-D-860-DB-2017 against said judgment of conviction and sentence was dismissed by this Court, on 28.05.2019. Thereafter, no further challenge was raised by the petitioner. However, CRM-M-45406-2022 was filed with a plea that since the incident leading to the registration of the FIR had occurred on 15.12.2014 and date of birth of the petitioner was 21.06.1998, therefore, as on the date of the commission of offence, the petitioner was aged 16 years, 05 months and 25 days. Prayer was made for reference of the question with regard to juvenility of the petitioner to the competent authority. Vide order dated 17.02.2023 a coordinate Bench of this Court of which one of us was a member, (Hon'ble, Mr. Justice Lalit Batra.,) directed the learned Sessions Court, Gurugram, to examine the claim of the petitioner with regard to juvenility in accordance with law and submit a

report to this court within one month from the date of communication of the order after examining the authenticity and genuineness of the documents sought to be relied upon by the petitioner, and in the event the documents being found to be questionable / unreliable, it would be open to the Sessions Court to have the petitioner medically examined by way of ossification test or any other modern recognized method of age determination and the Registry was directed to notify the matter after a period of one month along with the report from the Sessions Judge, Gurugram with final order to be passed after perusal of the report on receipt from the Sessions Judge, Gurugram.

4. Pursuant to enquiry, report dated 27.03.2023 / 10.04.2023 has been submitted by the learned Sessions Judge, Gurugram, holding that the petitioner / convict had not been able to establish his being juvenile besides even as per report of ossification test dated 10.04.2023, the petitioner was found to be more than 18 years of age as on date of commission of offence i.e. 15.12.2014.

5. Copy of the aforementioned report(s) was supplied to learned counsel for the petitioner on 24.04.2023, whereupon learned counsel for the petitioner had sought time to make submissions.

6. Today, at the outset, learned counsel for the petitioner states that in the circumstances nothing further survives in the petition and he would take steps in accordance with law with regard to the grievance, if any, of the petitioner qua the report submitted by the learned Sessions Judge, Gurugram.

7. In view of the position noted above as well as statement of learned counsel for the petitioner, the instant petition is disposed of as not calling for any further orders while granting liberty to the petitioner as prayed for.

(B.S.WALIA)
JUDGE

25.05.2023

Varinder Prashad

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No