

2023:PHHC:120357

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

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CRM-M-45579-2023

Date of Decision: 13th September, 2023

Harjinder Singh @ Gullu (minor) though his mother namely Lakhveer
Kaur ... Petitioner

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Sekhon, Advocate for the petitioner.
Mr. Rajiv Sidhu, Deputy Advocate General, Haryana.

AVNEESH JHINGAN , J.(Oral)

1. This petition under Section 438 of the Code of Criminal Procedure is filed seeking pre-arrest bail in case FIR No. 265 dated 3.8.2023, under Sections 147, 148, 285, 323, 452, 506 IPC, 1860 (Section 149 IPC added later on) and Section 25 of the Arms Act, 1959 registered at Police Station Kalanwali, District Sirsa.

2. The application for anticipatory bail filed by petitioner was dismissed by Additional Session Judge, Sirsa being not maintainable.

3. Learned counsel for the petitioner submits that the issue whether petition for anticipatory bail would lie in spite of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 starting with non-obstante clause is referred to the Division Bench.

4. Submission is that while making reference in that case the petitioner was granted interim bail.

5. Learned State counsel submits that matter is pending in the reference before a Division Bench and there is no interim order passed

by the Division Bench.

6. The petitioner in the present case is pleaded to be less than 18 years of age. The legal issue is pending in a reference, the Court as an interim measure had granted interim protection in that case. The application of petitioner was dismissed on the issue of maintainability.

7. As an interim measure, the matter is remitted back to the Additional Sessions Judge, Sirsa to decide the application under Section 438 Cr.P.C on merits.

8. It is clarified that any decision taken with regard to anticipatory bail shall be subject to outcome of the decision in reference pending before the Division Bench.

(AVNEESH JHINGAN)
JUDGE

13th September, 2023
anuradha

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No