

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

CRR No.2450 of 2023 (O&M)
DATE OF DECISION : 30.11.2023

‘V’Petitioner
versus
State of HaryanaRespondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Paramjeet Phor, Advocate for the petitioner
Ms. Priyanka Sadar, AAG Haryana

ALKA SARIN, J. (Oral):

CRM-45121-2023

1. For the reasons stated in the application, the same is allowed and the delay of 12 days in filing the criminal revision is condoned.

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2. The present revision petition has been filed challenging the order dated 18.05.2023 passed by the Principal Magistrate, Juvenile Justice Board, Panipat whereby the application filed by the Child-in-Conflict-with-Law for grant of bail under Section 12 of The Juvenile Justice (Care & Protection of Children) Act, 2015 (for short, ‘JJ Act’) was dismissed and

further laying challenge to the order dated 07.07.2023 passed by the Court of Sukhpreet Singh, Additional Sessions Judge/Fast Track Court (POCSO), Panipat dismissing the appeal filed by the Child-in-Conflict-with-Law against the order dated 18.05.2023.

3. The brief facts relevant to the present case are that an FIR was lodged by the mother of the victim that her elder daughter, who was 15 years old, went missing from her house on 04.06.2022. It was further alleged that she suspected that her daughter had been kidnapped.

4. The learned counsel appearing on behalf of the petitioner has contended that the petitioner in the present case is a Child-in-Conflict-with-Law and is entitled to be released on bail under Section 12 of the JJ Act. The learned counsel has further contended that the Child-in-Conflict-with-Law has been in an Observation Home since 12.01.2023. It is further the contention that on the date of the alleged occurrence the Child-in-Conflict-with-Law was a minor, his date of birth being 01.01.2005. It is further the contention that the Social Investigation Report has not been adverted to while dismissing the application under Section 12 of the JJ Act and hence the orders of the Courts below are unsustainable in law.

5. The learned counsel for the State, on instructions from ASI-Satish, has stated that there are serious allegations against the Child-in-Conflict-with-Law and releasing him on bail would defeat the ends of justice and that he is likely to come in contact with the criminals.

6. I have heard the learned counsel for the parties.

7. This Court in case of **Vishvas vs. State of Punjab [CRR No.53 of 2021 decided on 08.02.2021]** while dealing with the grant of bail to a Child-in-Conflict-with-Law under Section 12 of the JJ Act held as under :

“16. The social investigation report is not for discovering evidence regarding the alleged offence. The focus of the social investigation report is to identify and understand the circumstances of the child in question, and what may have led to the alleged crime. The report would also enable the Board to come to a decision as to whether there are any grounds of denying bail, as per the proviso to Section 12(1) of the J.J. Act, 2015. Therefore, it is incumbent upon the J.J. Board to take into consideration the social investigation report and make an objective assessment of the reasonable grounds for rejecting the bail application of the juvenile.”

8. The Social Investigation Report has been handed over in Court. As per the Social Investigation Report, the result of the inquiry reads as under :

“Result of inquiry

1. Emotional factorsemotionally stable
2. Physical conditionNormal
3. IntelligenceAverage
4. Social and economic factorsLower social and economic status....

5. *Suggestive causes of the problemschild was in Romantic Relationship*
6. *Analysis of the case, including reasons/contributing factors for the offence....Do*
7. *Opinion of experts consultedNil*
8. *Recommendation regarding rehabilitation by Probation Officer/child Welfare officer
.....Considering all the facts, circumstances and social investigation rehabilitation the child being Juvenile his all life is stable. So I think child need a chance to Reform.”*

9. Section 12 of the JJ Act reads as under :

“12. Bail to a person who is apparently a child alleged to be in conflict with law - (1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the persons release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfill the conditions of bail order within seven days of the bail order, such child shall be produced

before the Board for modification of the conditions of bail.”

10. Granting bail to the Child-in-Conflict-with-Law is a rule and rejection of the same is an exception. Section 12 of the JJ Act provides that notwithstanding anything contained in the Code of Criminal Procedure or any other law for the time being in force, except for the contingencies provided in the proviso to Section 12(1) of the JJ Act, bail cannot be denied to a Child-in-Conflict-with-Law. It is trite that neither gravity of the offence nor the fact that the co-accused are yet to be apprehended can be a ground for rejection of the prayer. Learned State counsel has neither been able to refer to any material or explain as to how the case of the Child-in-Conflict-with-Law would be covered under the proviso to Section 12(1) of the JJ Act. Mere apprehension cannot be a ground to decline the prayer for grant of bail. The Child-in-Conflict-with-Law has already been in the Observation Home for over a period of 10 months and 02 weeks.

11. Without commenting on merits of the case, the Child-in-Conflict-with-Law is directed to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the Principal Magistrate, Juvenile Justice Board concerned.

12. It is further ordered that the Child-in-Conflict-with-Law shall attend the trial on regular basis and shall also report to the Probation Officer once in every two months and his performance and conduct shall be monitored by the Probation Officer. Apart from that, on being released on bail, the Child-in-Conflict-with-Law shall furnish his contact number and

residential address to the Investigating Officer as well as the Principal Judge, Juvenile Justice Board concerned and shall also keep them updated, in case there is any change.

13. However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

14. It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

15. Disposed off. Pending applications, if any, also stand disposed off.

30.11.2023
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(ALKA SARIN)
JUDGE

<u>NOTE:</u> Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
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