

CRR-3029-2019(O&M)
Date of decision: 20.02.2023SAHUN (SINCE MINOR) THROUGH HIS LEGAL
AND NATURAL GUARDIAN ...PETITIONER

VERSUS

STATE OF HARYANA ...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURIPresent: Mr. Navneet Kumar, Advocate for
Mr. D.S.Matya, Advocate for the petitioner.

Mr. Surinder Kumar Dagar, DAG, Haryana.

VIVEK PURI,J. (ORAL)

Petitioner has assailed the order dated 09.08.2019 passed by the Court of learned Additional Sessions Judge, Faridabad vide which the application of the petitioner for declaring him juvenile has been dismissed.

Learned counsel for the petitioner contends that the date of birth of the petitioner is 04.11.2002 and the occurrence took place during the intervening night of 29/30-09.2018. As such, the petitioner was less than 16 years of age at the time of occurrence. It has been further contended that the date of birth of the petitioner was also got registered with Registrar (Birth and Death).

Learned State counsel contends that as per the allegations, during the intervening night of 29/30-09.2018, an ATM was broken and approximately a sum of Rs.12,50,000/- was stolen. The petitioner has alleged his date of birth to be 04.11.2002 but the same cannot be relied upon. The entry in the birth and death register has been got incorporated subsequent to the registration of the FIR. Moreover, the petitioner had also been studying in a school and has

therein.

It is significant to note that the petitioner has produced the birth certificate dated 09.07.2019 (Annexure P-3) in the record of the Court below wherein his date of birth has been recorded as 04.11.2002. The entry in the record of birth and death has been got incorporated after the registration of the FIR. It appears to be a clever ploy on the part of the petitioner and his family members to get the date of birth registered subsequent to the registration of FIR with an attempt to bring the case within the purview of Juvenile Justice (Care and Protection of Children) Act, 2015. The petitioner has examined Shabhir Ahmad, AW-2, the Health Inspector-cum-Sub Registrar, Birth and Death, PHC, Nagina, Nuh and it is emerging in the cross-examination that as per the record, the registration is dated 09.07.2019.

In these set of circumstances, it is amply clear that the birth has been got registered subsequent to the registration of FIR. The date of birth has been sought to be incorporated as 04.11.2002 with a malafide intention to avoid the regular trial and bring the case of the petitioner to be tried by the Juvenile Justice Board.

It shall not to be out of place to mention here that it has also been observed in the impugned order that the petitioner has studied in the school upto 4th or 5th standard and his parents have not produced any document relating to his admission in the school. As such, the school record which could have depicted the date of birth of the petitioner as recorded therein has been withheld by the petitioner. Had any such record be produced, it would have also tend to strengthen the version of the petitioner to indicate that his date of birth is 04.11.2002. In the absence of such record and in the peculiar circumstances under which the birth has been got registered in the records of Registrar, Birth and Death after the registration of the FIR, no reliance can be placed upon the

birth certificate dated 09.07.2019 (Annexure P-3) and it cannot be concluded that the date of birth of the petitioner is 04.11.2002 and was a juvenile at the time of occurrence. As such, no illegality or irregularity is made out in the impugned order which may call for interference by this Court.

In view of the above, finding no merit in the petition, the same is dismissed.

20.02.2023

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(VIVEK PURI)
JUDGE

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