

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

285/2

CRM-M-57626 of 2022

Date of Decision:13.07.2023

Harsh Kumar Chopra @ Gandhi

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. I. S. Kooner, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab

Mr. P. S. Sekhon, Advocate,
for the complainant.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.156 dated 20.11.2018, under Sections 364-A, 34 IPC (Section 302 IPC added later on), registered at Police Station City Rampura, District Bathinda.

2. It is submitted by learned counsel for the petitioner that it is a case where the petitioner is in custody for about four years and eight months and the petitioner was juvenile at the time of the alleged commission of the offence and he was so declared as a child in conflict with law by the order passed by the learned Addl. Sessions Judge on 25.11.2020 and thereafter the aforesaid order was assailed by the complainant before this Court in CRR-287 of 2021 wherein the operation of

the impugned order was stayed on 15.03.2021 and in this way the order by which the petitioner was declared as a juvenile as a child in conflict with law has since been stayed by this Court in the aforesaid case. He submitted that be that as it may, the petitioner has already faced incarceration for about four years and eight months and the petitioner is not a habitual offender and is not involved in any other case. He further submitted that four prosecution witnesses have already been examined including the complainant and the trial of the case may take long time and the benefit of the safeguards provided under Section 12 of the Juvenile Justice Act be also granted to the petitioner considering the fact that the petitioner was juvenile at the time of alleged commission of crime and although the matter is still sub-judice before this Court and therefore the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab has submitted, on instructions from Aaswant Singh, Deputy Superintendent of Police that so far as the custody period of the petitioner is concerned, it is correct and it is also correct that four prosecution witnesses have already been examined and the petitioner is not involved in any other case. He has however opposed the grant of bail to the petitioner on the ground that the offence is serious and heinous in nature. He submitted that the petitioner alongwith the other co-accused had called the complainant and demanded ransom of Rs.2 crores and when the police raided on the spot body of the deceased was recovered.

4. I have heard learned counsel for the parties.

5. The petitioner is stated to be in custody for about four years and eight months and as per learned counsel for the parties, four prosecution witnesses have

already been examined and the petitioner is not involved in any other case. Today this Court has also dealt with the bail petition of the other co-accused, namely, Jaspreet Singh @ Jaippee in CRM-M-43436 of 2020 has already been enlarged on bail by an order passed on even date. The petitioner was declared as a juvenile by the learned Addl. Sessions Judge vide order dated 25.11.2020 but the said order was assailed by the complainant before this Court and the operation of the order by which the petitioner was declared as a child conflict with law was stayed by this Court. Be that as it may, this Court would consider the prayer of the petitioner for grant of bail purely on the basis of long custody of the petitioner and also antecedents in this regard. Without going into the rights of the petitioner for seeking benefit under Section 12 of the JJ Act, this Court is of the view that considering the aforesaid facts and circumstances particularly the long custody of the petitioner, petitioner deserves the concession of regular bail. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

6. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of the present petition.

(JASGURPREET SINGH PURI)
JUDGE

July 13, 2023
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Whether speaking	:	Yes/No
Whether reportable	:	Yes/No