

CRR-97-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-97-2024 (O&M)
Date of Decision : 18.01.2024

Amritpal Singh @ Ambu

....Petitioner

VERSUS

State of Punjab

....Respondents

CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Sandeep S. Majithia, Advocate for the petitioner.

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SUDEEPTI SHARMA, J. (Oral)

CRM-2190-2024

1. This is an application for condonation of delay of 74 days in filing the present criminal revision petition.
2. For the reasons mentioned in the application, the same is allowed and delay of 74 days in filing the present criminal revision petition is condoned.

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1. The petitioner in the instant revision petition has impugned the order dated 15.06.2023 passed by the learned Principal Magistrate, Juvenile Justice Board, Amritsar in case FIR No.139 dated 14.08.2022 for offences under Sections 363, 366, 366-A, 120-B of the Indian Penal Code, 1860 (IPC) and subsequently added offences vide General Diary Details No.27 dated 15.08.2023 under Sections 376-D IPC and Section 4 of the Protection

of Children From the Sexual Offences Act, 2012 (POCSO) registered at P.S.Majitha, District Amritsar Rural, Amritsar and further impugned the order dated 04.08.2023 passed by the learned Addl. Sessions Judge, Fast Track Court, Amritsar in CRA/234/2023, whereby the bail application as well as appeal thereof have been dismissed by the learned Trial Court as well as the learned Appellate Court.

2. As per order dated 14.06.2023, the petitioner has been held as a juvenile in conflict with law aged about 16 years 06 months and 10 days old on 11.08.2022 i.e the date of occurrence. Since as per Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (the Act) grant of bail to a juvenile is the general rule and its refusal is an exception which can be made only when there appear reasonable grounds for believing that his release is likely to :-

- (1) Bring the juvenile into association with any known criminal or
- (2) Expose him to moral, physical or psychological danger or
- (3) His release would defeat the ends of justice.

The first regular bail application of the petitioner was dismissed by the learned Principal Magistrate, Juvenile Justice Board, Amritsar vide order dated 15.06.2023. He filed an appeal against the said order, which was also dismissed vide order dated 04.08.2023. Hence the present revision petition.

3. Learned counsel for the petitioner contends that the petitioner is innocent and has been falsely implicated in the present case. He further contends that the Investigating Agency has illegally added offences under Section 376-D IPC and Section 4 of the POCSO Act in FIR vide General

Diary Details No.27 dated 15.08.2023. He further contends that this is a case of love affair between the petitioner and victim Sumanjit Kaur. She on her own sweet will eloped with the petitioner from her home and stayed with him for a period of three days.

4. After hearing the learned counsel for the petitioner and perusing the whole record, this Court concludes as under:-

i) Learned Juvenile Justice Board, while dismissing the bail application on 15.06.2023, observed as under:-

“ Coming to facts, both Social Investigation Report and Social Background Report of juvenile Amritpal Singha Ambu are categoric to the effect that his company comprises majorly of his contemporaries. He had studied upto 8" standard and had later left school for supporting his family. His parents have been stated as being completely oblivious to his activities and counselling has been recommended for his betterment. Moreover, it has also been reported that on account of wanting to be intimate with a girl he had committed the offences in question. Thus, it is not as if the juvenile did not have sufficient maturity, awareness and understanding of his acts insofar as he had attained the age of discretion and was about 16 years 06 months and 10 days old at the time of the occurrence. Thus, there was no ground to hold that the juvenile was completely unaware about his

own acts. Rather, as is the version of the victim, as reflected in her statement recorded u/s 164 Cr.P.C. copy thereof forms part of the record, juvenile Amritpal Singh @ Ambu, alongwith two others had broken into her house at midnight on 10.08.2022 and had kidnapped her. She was then taken to Verka in a car where juvenile Amritpal Singha Ambu had a rented accommodation in the name of his grandmother and during their stay there for the next 3 days juvenile Amritpal Singh Ambu and one Gopi had raped and sexually assaulted her. Not stopping there, juvenile Amritpal Singh @ Ambu had proceeded to threaten the victim with her life. All this goes on to show that he was quite well aware about what he intended to pursue and therefore he could not be permitted to take refuge behind the fact that he was a juvenile. His above act and conduct both prior to, during and after the offences establishes his level of understanding quite sufficiently and clearly. Thus, in light of the above it is quite clear that the juvenile, in case released on bail, might once again try to lay his hands on the victim, and who knows he might even be successful this time. Thus, release of the juvenile at this stage in such a heinous case would defeat the ends of justice by rendering it highly possible and probable that

upon his release he might try to harm the victim and or her family yet again in one way or the other and might also attempt to evade the course of justice by prevailing upon the victim and/or her family be dissuading them from pursuing their legal remedy which might be to his detriment. Also, such like incidents of gang rape and sexual assault on the girls take a huge toll on the physical and mental health of the victims by afflicting them with a potentially life long trauma Incidents such like the one in hand are a commonplace occurrence these days and need to be checked thoroughly and the victims or potential victims also need to be instilled with a sense of safety and security that they can not only move around in the society at any given hour but also remain at their homes without the Damocles sword of such like incidents hanging over their heads. Moreover, it is not as if the juvenile has his studies to divert him from criminal activities insofar as he has left school after 8 standard and is not interested in pursuing studies. Lastly, there is also a lack of supervision on the part of his parents for they have been termed completely oblivious to his nefarious activities. Thus, there is every possibility of the juvenile going astray and committing more offences, thus exposing himself to the extremes of societal wrath and

anger, since there is no one to guide him in the right direction, thereby rendering his own self susceptible to physical, moral and psychological danger as well. As is also not that uncommon, someone in an attempt to render mob justice by taking law into his own hands might try to harm the juvenile, perhaps fatally, who stands booked for heinous offences What the juvenile requires at this stage is proper counselling to realize that his acts, if stand proved, would be tantamount to a heinous offence”

ii) The appeal filed by the petitioner against the order dated 15.06.2023 is also dismissed on the same lines vide order dated 04.08.2023.

iii) A perusal of the above shows that the case of the petitioner is exception to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the manner of commission of offence establishes his level of understanding and his intention to commit the offence. The sequence in which offence has been committed further clarifies the intention of the petitioner to commit the offence.

iv) In view of the above, I do not find any infirmity in the impugned orders dated 15.06.2023 and 04.08.2023, passed by the Courts below. Therefore, the present revision petition is dismissed accordingly.

v) Pending applications, if any, also stand disposed off.

January 18, 2024
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(SUDEEPTI SHARMA)
JUDGE

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Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No