

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

209

CRM-M-9980-2024
Date of decision: 31.07.2024

RANBIR SINGH
Versus
STATE OF HARYANA
....Petitioner
...Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Jaspreet Singh Brar, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

KULDEEP TIWARI. J.(Oral)

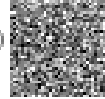
1. On 26.02.2024, this Court had passed the hereinafter extracted order,
upon the instant petition:-

“The petitioner, who is a child in conflict with law, as he claims himself to be 16 years of age, has filed the instant petition under Section 438 Cr.P.C., through his father, thereby seeking grant of anticipatory bail, in case FIR No.18, dated 17.01.2024, under Sections 148, 149, 323, 341 and 506 of the IPC (Sections 308 and 120-B of the IPC added later on), registered at Police Station Bilaspur, District Yamunanagar.

Learned counsel for the petitioner, in his asking for the relief of pre-arrest bail, submits that the petitioner has nothing to do with the alleged crime, as neither he has been named in the FIR, nor any specific role has been attributed therein to him. He further submits that the injured only suffered three injuries, out of which, none has been declared as 'dangerous to life', therefore, the investigating officer has illegally invoked the provisions of Section 308 of the IPC.

The final and most important plea, as raised through the instant petition, is that, the petitioner is a juvenile having age of 16 years, hence, he cannot be arrested by the police.

Learned counsel for the petitioner further submits that the petitioner



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had earlier approached the Court of learned Additional Sessions Judge, Yamunanagar at Jagadhari, for the relief of pre-arrest bail, however, the same was declined vide order dated 15.02.2024 (Annexure P-2), on the ground that, petition under the provisions of Section 438 Cr.P.C., on behalf of a juvenile, is not maintainable

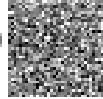
Notice of motion.

Mr. Bhupender Singh, DAG, Haryana, accepts notice on behalf of respondent-State.

This Court has examined the entire record as well as the pleas raised by learned counsel for the petitioner.

Before this Court evinces any opinion qua grant or not of the asked for relief, it is deemed apt to first deal with the gist of the allegations, which find mentioned in the FIR, which has been registered on the statement of complainant-Ram Kumar son of Babu Ram. The relevant extract of the FIR reads as under:-

“It is stated that I am resident of abovesaid address and does a work of agriculture. I have two sons and elder son Ranbir Singh aged about 35 years and younger son Sandeep Kumar aged about 32 Years and he is deaf and dumb by birth. Both does a work at Kunal Chemical Company, Jagadhri Road, Bilaspur. I have dispute with my brother Raj Kumar son of Babu Ram resident of Village Chandakheri with regard to the land and regarding the same both the parties are having Civil and criminal case pending at the court at Bilaspur. That my elder brother Raj Kumar quarrelsome nature who does a dispute daily with anybody with regard to one or another reason. That he used to give threats to my life as well as to the life of my family. Today on 16.01.2024 I was going from my village Chandakheri to Bilaspur with regard to personal work and it was about 2:00 PM in the day and when I went way forward towards Jagadhri Road from my house and saw that number of persons have gathered at the house of our Ex-Sarpanch of our village Dharamvir Singh. When I reached there and saw that 8-9 young persons who had covered their faces with clothes and saw that my son Sandeep Kumar who was coming from Kunal Company, Bilaspur after completing his work on his Activa bearing No.HR71-E-2130 of white color towards his house at village Chandakheri and they were beating my son Sandeep Kumar after stopping him on the way. They were beating my son very badly with sticks and iron rod the abovesaid persons had caused injuries to my son Sandeep Kumar at his head and left arm and also at left leg. That due to which there is fracture at the left arm and left leg of my son

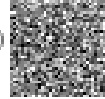


Sandeep Kumar and when I suddenly reached at the spot and raise hue and cry then these unknown persons ran away towards Jagadhri Road, Bilaspur from Chandakheri on their two motorcycle and one Aactiva alongwith their respective weapons. They while going were saying that today you are saved and if you met again then you will be killed. Thereafter, I with the help of passerby and by putting my injured son into private car brought him at Government Hospital, Bilaspur for treatment. Thereafter, doctor sahib on seeing serious condition of my son Sandeep Kumar referred Sandeep Kumar to Civil Hospital, Yamuna Nagar. Now my son Sandeep Kumar is getting the treatment at Civil Hospital, Yamuna Nagar. That I am fully confident my brother Raj Kumar son of Babu Ram and my nephew Mohit Kumar in connivance with Karambir, Satbir sons of Karnail Singh resident of village Chandakheri had caused injuries to my son Sandeep Kumar with an intention to kill. That earlier to this my elder brother Raj Kumar on 10.06.2021 and caused injuries to my son at the front of my house with 10-15 boys who were armed with sticks and swords with an intention to kill. These persons are trying to murder me and my family due to the reason of land dispute. Hence, I am requesting that strict legal action be taken against the abovesaid accused.”

It transpires from the record that, during the investigation, Sections 308 and 120-B of the IPC were added in the FIR.

Though the allegation against the petitioner, is that, he alongwith his co-accused caused injury (ies) to the victim, however, there is no specific injury attributed to the present petitioner.

Considering the fact that no specific role has been attributed to the present petitioner, coupled with the fact that veracity of the allegations, as levelled in the FIR (supra), are yet to be established before the learned trial Court concerned, through adduction of evidence, this Court deem it appreciate to grant interim relief of pre-arrest bail to the petitioner. Therefore, the petitioner, through his father, is directed to cause appearance before the Juvenile Justice Bard concerned, within 15 days from today, and on his doing so, the petitioner be released on interim bail, subject to his furnishing surety bonds to the satisfaction of the Board concerned. Thereupon, the Board concerned is directed to take necessary action, as required under Sections 14 and 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter to be referred 'Act of 2015'), and, to conduct a detailed inquiry to ascertain the age of the



petitioner.

The Board shall also conduct a preliminary assessment, as the alleged offences falls within category of 'heinous offences', as prescribed under Section 15 of the Act of 2015.

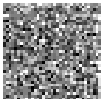
After making compliance of directions (supra), the Juvenile Justice Board concerned shall forthwith send a report, thereby apprising this Court about the outcome of aforesaid inquiry.

Adjourned to 31.07.2023, for awaiting report. ”

2. In view of the directions (supra), as issued by this Court, Juvenile Justice Board, Yamuna Nagar, Jagadhri has conducted a detailed inquiry, regarding the age of the juvenile. The inquiry was conducted, and thereupon a report in this regard has been filed by the Principal Magistrate Juvenile Justice Board-cum-Additional Civil Judge (Senior Division), Yamuna Nagar at Jagadhri, the relevant extract of the same, reads as under:-

“It is submitted that in compliance of the aforementioned order of Hon'ble High Court, Juvenile Justice Board, Yamuna Nagar at Jagadhri conducted an inquiry regarding age of Ranbir Singh and it was concluded by the Board that date of birth of Ranbir Singh is 31.10.2007 and he was juvenile at the time of commission of alleged offence.

It is also submitted that inquiry report has been filed for the commission of offence punishable under Sections 120-B, 148, 149, 308, 323, 341 and 506 of IPC. As per Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015, heinous offence includes the offences for which the minimum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment for seven years or more. The offences punishable under Section 120-B, 148, 149, 308, 323, 341 and 506 of IPC do not come within the ambit of heinous offence as defined in Juvenile Justice (Care and Protection of Children) Act, 2015 and therefore, the provisions of Section 15 of Juvenile Justice (Care and Protection of Children) Act, 2015 are not applicable to the case of Juvenile Ranbir Singh.”



3. In view of the above, the present petition is **allowed** and the interim directions passed by this Court, vide order dated 26.02.2024 is hereby, made absolute subject to the condition that the petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.
4. The petitioner is directed to cause appearance before the Board concerned, within a period of 15 days from today, and furnish fresh bail bonds/surety bonds, to the satisfaction of the Board concerned.
5. The instant petition is **disposed** of accordingly.

31.07.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No