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

CRR-688-2024

Date of Decision:- 13.09.2024

AJAJ ALIAS AJU

....Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Sandeep Saini, Advocate for petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. L.M. Gulati, Advocate for complainant.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Ajaj @ Aju has filed revision against order dated 23.01.2024 passed by learned Principal Magistrate, Juvenile Justice Board, Yamuna Nagar at Jagadhari whereby his application seeking bail in FIR No. 135 dated 25.05.2023 under Sections 148, 149, 302, 323, 324, 452 & 120-B of IPC has been dismissed as well as appeal preferred against this order has also been dismissed vide order dated 13.03.2024 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari.

2. Brief facts of the case are that Khaliq gave his statement to the police that he is having 4 brothers and 6 sisters. Elder brother is Manavar, younger to him is Tassavar, then Sadam and he is the youngest. All sisters



are married. His brother Manavar was married to Imrana and they were having one son and a daughter. On 24.05.2023 there was retirement party of Abdul Hameed which was attended by their family. After party at about 5.30 pm his brother Saddam had gone to bring fodder for the cattle on his bullet motorcycle and on the way Tushar and Mehtab stopped his brother and abused him. Matter was pacified. On 25.05.2023 at about 8.30 am, Mehtab came to his house and started abusing. In the meantime, Imtiaz carrying iron pipe of bicycle gear half-cut, Tushar armed with iron punch in his hand, Vicky @ Sanovar armed with knife, Shahid @ Petrol armed with knife, Zahir armed with iron rod attacked their house. People of the area tried to stop them. Later Irshad, Dilshad and Tahir came and started beating his brother Saddam, Tasavar, Manavar and the complainant. They also started fighting with his mother Begum. Wajid and some persons came towards them to save. On this Mehtab, Imtiaz, Tushar, Vicky @ Sanovar, Shahid @ Petrol and Zahir attacked them with their respective weapons. Tahir gave blow with a punch on the head of Manavar. Imtiaz gave blow with iron pipe on the head of Manavar who fell down. Vicky @ Sanovar gave knife blow on the waist of Manavar and twisted it as a result profuse bleeding started. Tushar again hit Manavar on his head with his punch. Mehtab, Shahid @ Petrol and Zahir also gave beatings to him while he was lying on the ground. Tushar, Zahir and Irshad gave beatings to him and his family members. His brother Manavar was taken to Community Health Centre, Sadhaura in a vehicle where he was declared dead. Aforesaid persons attacked his family in conspiracy with Ajaj @ Aju, Moin @ Moni, Rahish, Shamshad @ Billa, Praveen, Rumi, Rukhsana, Gulshana and Mumtaz.



3. Learned counsel for petitioner argued that bail application filed by Ajaj @ Aju was declined by Principal Magistrate, Juvenile Justice Board, Yamuna Nagar at Jagadhri without proper appreciating the facts and the appeal was also declined by learned Additional Sessions Judge, Yamuna Nagar. In-fact, present petitioner, who was a juvenile, had no concern with said occurrence. Petitioner was a student and his bail application was filed by his uncle under Section 12 of Juvenile Justice (Care and Protection of Children) Act. No specific role is attributed to him except the allegations of conspiracy. Courts below totally ignored provisions under Section 12 of Juvenile Justice (Care and Protection of Children) Act and till date he is not released. He is behind the bars since 26.05.2023. No purpose would be served by keeping him behind the bars. He has no criminal antecedents. He will abide by the order of Court. It is prayed that he may be granted bail by accepting the present revision.

4. Revision petition is opposed by learned counsel representing State of Haryana. Detailed status report is filed. It is pointed out that complainant Khaliq had received seven injuries. Copy of his MLR is Annexure R-2. In this occurrence, brother of the complainant Manavar was murdered. Copy of his post-mortem report is Annexure R-1. Petitioner was also present on the spot. Regarding the said occurrence, Pen Drive and photographs were handed over to the Investigating Officer. All the accused persons are challaned. Whereas petitioner and Shahid @ Petrol were declared juvenile vide order dated 04.01.2024. Their challan is also presented before Juvenile Justice Board and chargesheet has been framed.

There are serious allegations against petitioner. Therefore, he is not entitled to be released on bail by accepting the present revision petition.



5. I have considered the arguments and have gone through the record. At the time of said occurrence, present petitioner was juvenile and admittedly he was declared juvenile vide order dated 04.01.2024. Challan regarding present petitioner and Shahid Khan @ Petrol is presented before the Juvenile Justice Board. Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 deals with bail application who is apparently a child in conflict with law.

Relevant clause-1 runs as under:-

“12. Bail of juvenile.-(1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is 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 institution or fit person) but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.”

In order to appreciate the present case, facts narrated in the FIR are carefully gone through and considered. In the FIR, no specific role is attributed to petitioner. It is claimed that occurrence took place in conspiracy with present petitioner and others. While dealing with bail application of present petitioner, investigation report submitted by



Probation Officer was considered which is reproduced as under:-

“In the above case the main reason seems to be the influence of the child (peer group). According to the uncle of child, he has no previous case. The child is student of 12th class. Both parents also under custody in same case.”

6. In the status report filed by respondent, there is nothing on record that petitioner is having criminal antecedents. Role attributed to the petitioner has to be considered. Inquiry is pending before Juvenile Justice Board and its conclusion will take time. Principal Magistrate Juvenile Justice Board while dismissing the bail application vide order dated 23.01.2024 did not consider the aforesaid facts. Similarly, in appeal preferred against that order, learned Additional Sessions Judge, while dismissing vide judgment dated 13.03.2024 failed to consider aforesaid factors. In light of this, aforesaid orders passed by learned Courts below are not justified and the same are accordingly set aside.

7. Revision preferred by petitioner is, accordingly, accepted. Petitioner is ordered to be released on bail to the satisfaction of concerned Juvenile Justice Board.

8. My observations are made for the disposal of this revision and it will have no bearing on the merits of case.

9. Pending miscellaneous application(s), if any, stand disposed of accordingly.

13.09.2024

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Whether speaking/reasoned: Yes/No.

Whether reportable: Yes/No

(AMARJOT BHATTI)
JUDGE