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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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CRM-M No.27186 of 2024
Date of decision: 27.08.2024

Prince Kumar ... Petitioner
Vs.
State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ketan Chopra, Advocate,
for the petitioner.

Mr. Amandeep Singh Samra, AAG, Punjab,
for the respondent-State.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition has been made by the petitioner for setting aside the order dated 21.12.2023, passed by the learned Principal Magistrate, Juvenile Justice Board, Ludhiana in case arising out of FIR No.92 dated 29.04.2023 registered under Sections 201 and 302 read with Section 34 of IPC at Police Station Jamalpur, District Ludhiana, whereby the relief claimed by the petitioner, for grant of regular bail was rejected as well as the order dated 15.02.2024 passed by the Court of learned Additional Sessions Judge, Ludhiana, whereby the revision filed against the order dated 21.12.2023 was dismissed.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 29.04.2023, on receipt of an information

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regarding dead body of some unknown persons found lying in the field of someone at Village Sahibana Bhukhri Road, a police party headed by Inspector Bikramjit Singh had reached at the spot. The dead body was lifted and was kept in mortuary of Civil Hospital, Ludhiana. On the same day, the complainant Surjit Kaur reached there and identified the dead body to be that of her husband Satwinder Singh. She recorded her statement to the effect that her husband had been living with the accused Ramandeep Kaur @ Ramni since long. He had been bearing all household expenses of Ramandeep Kaur and had parted with a huge amount of money. From past sometime, her husband had been asking Ramandeep Kaur to return the money so given by him but she had been extending threats to kill him, if he asked for the same. She alleged that her husband had told about this fact to her as well as to his cousin brother Paramjit Singh expressing fear that accused Ramandeep Kaur in connivance with her husband Sandeep Nagpal, the petitioner who is her son, nephew Shivam Singh and accused Akash had been hatching some conspiracy and could some harm to him. She alleged that during the course of that very day, they had been trying to make call to the victim but his telephone was going switched off. She alleged that her husband had been killed by the petitioner and co-accused in connivance with each other and thereafter his dead body was set to fire with an intention to destroy it and also disclosed that Verna car belonging to her husband was also kept by the assailants.

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3. After registration of FIR, investigation proceedings were initiated. Inquest proceedings and postmortem examination of the dead body of the victim was also conducted. The co-accused were arrested. The petitioner was also detained. On interrogation, all of them suffered disclosure statements admitting their involvement in the murder of the victim and about the manner in which the victim had been assaulted and his dead body was thrown. The accused Sandeep Nagpal got recovered the Verna car belonging to the victim in pursuance of his disclosure statement. Recovery of a motorcycle used by the petitioner at the time of taking the dead body of the victim to the fields had also been effected. After completion of investigation and usual formalities, challan was presented against the accused persons. The petitioner who is a juvenile was kept in safe custody at Observation Home, Shimlapuri, Ludhiana. He moved an application for grant of regular bail which was dismissed by learned Principal Magistrate, Juvenile Justice Board, Ludhiana vide order dated 21.12.2023. The revision filed against the said order had also been dismissed by the Court of learned Additional Sessions Judge, Ludhiana.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. There is no direct eye-witness to the occurrence. The case is based on circumstantial evidence. The disclosure statements of the co-accused and himself cannot be considered to be admissible in evidence and do not connect him with the subject offences.

No marks of strangulation had been found on the neck of the victim. The

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petitioner being a juvenile was entitled to be granted concession of regular bail as a matter of right in terms of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (For short “Act, 2015”). While passing the impugned orders, the Principal Magistrate, Juvenile Justice Board and the learned Additional Sessions Judge did not consider the well settled proposition of law on the point. He is in custody since 29.04.2023. The trial is likely to take time. Therefore, it is argued that he deserves to be released on bail. To fortify his argument, learned counsel for the petitioner has relied upon authorities cited as **Aman @ Fauzi v. State of U.P.**, 2019 (108) ACrC 507 and **Dr. Subramaniam Swamy and others v. Raju thr. Member Juvenile Justice Board and another**, AIR 2014 Supreme Court 1649.

5. Status report has been filed by respondent-State. It is submitted therein and and it is argued by learned State counsel that there are serious and specific allegations against the petitioner. There is nothing to show that there would be any undue delay in conclusion of the trial. Therefore, it is urged that the petition does not deserve to be allowed.

6. I have considered the submissions made by both the sides and have gone through the available record.

7. It is not in dispute that the petitioner was below the age of 18 years at the time of commission of the subject crime which is undoubtedly a heinous crime. Section 12 of the Act, 2015 contains a mandate to release a child in conflict with law on regular bail when he is

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apprehended or detained in connection with an offence. The rule in Section 12 of the Act, 2015 sanctioning bail universal to every child in conflict with law presupposes that there is a prima facie case against him in the assessment of the Board or the Court based on the evidence placed at that stage. It is where a case against a child in conflict with law is prima facie made out that the rule in Section 12 (1) of the Act, 2015 that sanctions bail as a rule, except the three categories contemplated by the proviso, comes into play. These three categories are that there is reasonable ground for believing that the release is likely to bring the child into association with any known criminal, or; that it will expose him to moral, physical or psychological danger, or; that his release defeats the ends of justice. The Hon'ble Supreme Court in **Jitendra Singh @ Babboo Singh and another v. State of U.P.**, 2013 (11) SCC 193, had observed that ordinarily a juvenile in conflict with law shall be released on bail but he may not be so released if there appear to be 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.

8. In **Om Parkash v. State of Rajasthan and another**, 2012 (2) RCR (Criminal) 770, the Hon'ble Supreme Court had observed that when an accused whether he is juvenile or not commits a grave and heinous offence and thereafter attempts to take statutory shelter under the guise of being a minor, a casual or cavalier approach cannot be permitted as the

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Courts are enjoined upon to perform their duties with the object of directing the confidence of the common man in the institution entrusted with the administration of justice. It was further observed that while dealing with the juvenile who is involved in cases of serious nature like rape, gang rape, murder etc., he cannot be allowed to abuse the statutory protection by attempting to prove himself as a minor.

9. In **Xxx v. The State of Rajasthan and another**, Criminal Appeal No.1567 of 2023 decided by Hon'ble Supreme Court on 17.05.2023, it was observed that while granting bail to a juvenile, it is necessary for the Juvenile Justice Board to apply its mind to the question as to whether such juvenile can stay with his parents as per the social investigation report. A deeper inquiry is also required to be conducted after considering the status of other family members of the juvenile, the surroundings around his house and other relevant factors. A bare perusal of contents of Section 12 of the Act, 2015 read in the light of the ratio of law as laid down in the above cited authorities reveals that the legislature clearly stipulates that a child in conflict with law is entitled to be released on bail except under the circumstances when some tangible material is brought on record by the prosecution or there are reasonable grounds for believing that his 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. Meaning thereby that a child in conflict with law is entitled to bail as a rule except where the

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categories contemplated by proviso to Section 12 (1) of the Act, 2015 come into play. At the same time, no indefeasible right exists in his favour for grant of bail under the Act, 2015.

10. In the instant case, the allegations against the petitioner are that in furtherance of the common intention with the co-accused who are his parents and other family members and he along with them, he caught hold of the victim on the fateful night whereas the co-accused Akash hit on the head of the victim Satvinder Singh, accused Shivam strangled him with a rope and then the petitioner along with the co-accused Shivam Kumar while riding on a motorcycle accompanied the other co-accused who took the dead body of the victim in a Verna car belonging to the victim himself. After throwing the dead body in the fields, then poured acid from a bottle on his body and set it on fire. The social background report of the juvenile had been obtained by the Juvenile Justice Board as per which, he lacked proper parenting and was very much prone to negative influences. The learned Principal Magistrate observed that the social impact of the offences committed by the juvenile was quite high and it might result into defeating the ends of justice and would expose him to moral and psychological danger. It also opined that the idea of detaining him at Observation Home was reformatory and not punitive.

11. The learned Additional Sessions Judge while passing the impugned order dated 15.02.2024 also observed that since the parents of the petitioner were also nominated as co-accused and there was no one at

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his home to look after the petitioner, therefore, if released on bail, there was also likelihood of his being exposed and coming into association with criminals and committing similar offences again. It is well settled that though the provisions of the Act, 2015 which are meant to treat a child in conflict with law with care and sensitivity offering him a chance to reform and settle into the mainstream of society, the same cannot be allowed to be used as a ploy to dupe the course of justice while conducting trial and treatment of heinous offences as that would clearly be treated as an effort to weaken the justice dispensation system and hence, should not be encouraged. Reliance in this regard can be placed upon **Om Parkash's case** (Supra), wherein the Hon'ble Supreme Court observed so.

12. In view of the discussion as made above and while considering the fact that the object of Act, 2015 is to achieve not only the welfare and betterment of juvenile by extending him services of reformatory nature but also to address the concern of society at large and as such, striking balance is necessary while considering the matter of bail of a juvenile from the angle of not only the interest of the child but demand of justice to the victim as well and further the fact that a juvenile can be denied concession of bail in case the exigencies as specified in the proviso to Section 12 of the Act, 2015 are shown to be existing, it may be mentioned that though no material is available on record to indicate that there is any likelihood of the petitioner's coming into association with

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any known criminal but keeping in view the fact that his parents and even cousin are co-accused and are detained in custody, the possibility of his being exposed to moral, physical and psychological danger is quite high. More so, keeping in view the gruesome manner in which the murder of the victim had been committed, in my opinion, the provisions of Section 12 of the Act, 2015 which cannot be interpreted in a manner to give advantage to the petitioner only, do not make out a case that declining his release on bail would defeat the ends of justice. Rather in the opinion of this Court, in the peculiar circumstances, his release would certainly defeat the ends of justice. As such, the prayer made by the petitioner for grant of bail does not deserve to be allowed. Accordingly, the petition is dismissed.

27.08.2024

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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No