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

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Date of Decision : July 17, 2024

ABC

-PETITIONER

V/S

STATE OF PUNJAB

-RESPONDENT**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Rajiv Kumar Saini, Advocate
for the petitioner.

Mr. Pardeep Bajaj, D.A.G., Punjab.

KULDEEP TIWARI, J. (ORAL)

1. The instant revision petition has been filed at the instance of a juvenile by disclosing his identity, whereas, in terms of the provision embodied in Section 74 of the The Juvenile Justice (Care And Protection of Children) Act, 2015 (hereinafter referred to as the 'Act of 2015'), his identity ought to have been withheld. Consequently, the Registry of this Court is directed to score out the identity of the juvenile wherever disclosed in the instant petition and substitute it with 'ABC'.

2. Through the instant revision petition, the petitioner/"Child in Conflict with Law" (hereinafter referred to as the 'CCL'), has assailed the order dated 24.05.2024, whereby, the Principal Magistrate, Juvenile Justice Board, Gurdaspur, has dismissed his bail application, in FIR No.91 dated 09.10.2023, under Sections 21/29 of the N.D.P.S. Act, registered at P.S. Fatehgarh Churian. In addition, the CCL has also assailed the order dated

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06.06.2024, whereby, the learned Additional Sessions Judge, Gurdaspur, has dismissed his statutory appeal, as preferred against the declining order dated 24.05.2024.

3. What constituted the bedrock for registration of the present FIR was that, on 09.10.2023, 10 grams of heroin was recovered from one Satnam Singh, whereupon, he was arrested and during interrogation, he suffered a disclosure statement that he had procured the recovered contraband from the CCL. Accordingly, the CCL became nominated as an accused under Section 29 of the N.D.P.S. Act and was arrested on 29.04.2024.

4. The CCL approached the learned Juvenile Justice Board concerned and also the learned Additional Sessions Judge concerned, thereby seeking his release on bail, however, vide the orders impugned herein, his prayer for bail was declined.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE CCL

5. The learned counsel representing the CCL has made the following submissions:-

(i) The learned courts below have erred in declining bail to the CCL merely on the basis of a Social Background Report;

(ii) The apprehension expressed by the learned courts below that release of the CCL on bail would bring him in association with other unknown criminals becomes resolved, inasmuch as, the parents of the CCL have sworn their respective affidavits, thus assuring that they will take personal care of the CCL and will not allow him to indulge in any criminal activity;

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- (iii) *Although, as per Section 12 of the Act of 2015, the gravity of the offence is insignificant for the purpose of granting bail to a juvenile, however, even otherwise the CCL has a good case on merits;*
- (iv) *The CCL has not committed the alleged offence, rather he has been made falsely implicated on the basis of a disclosure statement, which is in fact inadmissible in the eyes of law. Moreover, the contraband allegedly recovered from co-accused Satnam Singh falls within “non commercial quantity”;;*
- (v) *The CCL has clean antecedents and subjecting him to prolonged incarceration would not serve any gainful purpose, rather would spoil his future.*

SUBMISSIONS OF THE LEARNED STATE COUNSEL

6. The learned State counsel has opposed the grant of bail to the CCL, on the ground that, his release would bring him in association with criminal gangs indulging in trade of narcotics, thereby spoiling his future. The thrust of his arguments is upon welfare of the CCL, therefore, he has submitted that, in case, this Court is releasing the CCL on bail, his parents may be bound down to, after his release, produce him before the District Child Welfare Officer/Committee concerned for regular counseling.

REASONS FOR ALLOWING THE INSTANT REVISION PETITION

7. This Court has heard the submissions made by the learned counsels for the parties and also perused the record. For the reasons assigned hereinafter, this Court deems it appropriate to allow the instant revision petition.

8. First of all, it is true that, the gravity of the offence may not *stricto sensu* be the reason for declining the relief of bail to a juvenile, espe-

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cially in the light of the provisions engrafted in Section 12 of the Act of 2015. Moreover, even if we consider the allegations levelled against the petitioner, it appears that he has been arrayed as an accused merely on the basis of disclosure statement of co-accused Satnam Singh, from whom 10 grams of heroin (non commercial quantity) was recovered. *Prima facie*, except the disclosure statement (supra), there does not appear any other cogent inculpatory evidence, thus indicative of CCL's involvement in the alleged crime.

9. Moreover, the parents of the CCL have sworn their respective affidavits, which are taken on record as Mark 'X' and 'Y', thereby assuring that they will take care of the CCL and will ensure that he does not come in association of any criminals or gangs.

10. Furthermore, this Court also concurs with the view adopted by a Co-ordinate Bench of this Court, while dealing with an alike matter, in CRR No.1005 of 2020, Decided on: 08.08.2020, that "*grant of bail to a juvenile is a rule and the decline of the same is an exception*". The relevant paragraph of this order is reproduced hereinafter:-

*"(7) Grant of bail to a juvenile is a rule and the decline of the same is an exception. This Court in **CRR No.808 of 2020 titled as Sahil alias Nannu versus State of Haryana decided on 09.06.2020**, held that a child in conflict with law should be released on bail notwithstanding anything contained in the Code of Criminal Procedure or any other law for the time being in force except for any of the three contingencies specified in proviso to Section 12(1) of the Act i.e. (i) if there appears to be a reasonable ground for believing that the release of the juvenile is likely to bring him into association with any known criminal, or (ii) the release will expose the juvenile to moral, physical or psychological danger or (iii) his release would defeat the ends of justice. Reliance can further be placed in this regard upon judgment of this Court in **CRR No.869 of 2020 titled as Manga***

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Mann and another versus State of Punjab, decided on 21.05.2020.”

11. In summa, this Court deems it appropriate to grant the relief of bail to the CCL, who has been confined since 29.04.2024. Consequently, the instant revision petition is **allowed**, and, the impugned orders dated 24.05.2024 and 06.06.2024 are set aside. The CCL is ordered to be released on bail, subject to furnishing adequate bail/surety bonds to the satisfaction of the Principal Magistrate, Juvenile Justice Board, Gurdaspur.

12. The parents/legal guardians of the CCL shall regularly monitor his movement and ensure that he does not come in association with any known criminals and does not indulge in any other offence. Moreover, the parents/legal guardians of the CCL are also directed to, within a week of release of the CCL on bail, produce him before the District Child Welfare Officer/Committee concerned for counseling and even thereafter, as and when the latter calls the CCL for counseling, produce him.

13. It is clarified that the observations recorded hereinabove are only meant for deciding the instant revision petition and the same shall not be construed to be an opinion on merits of the case.

July 17, 2024
devinder

(KULDEEP TIWARI)
JUDGE

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