



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRR No.1583-2024

Date of decision: 20.09.2024

Varinder Singh @ Ravi

...Petitioner

V/s

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Sandeep Lather, Advocate for the petitioner.

Mr. Yuvraj Singh, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. The petitioner-child in conflict-with-law (hereinafter referred to as 'CCL') has filed the second revision petition challenging the order dated 15.06.2024 passed by Principal Magistrate, Juvenile Justice Board, Amritsar (hereinafter referred to as 'Juvenile Justice Board') and the order dated 30.07.2024 passed by learned Additional District & Sessions Judge, Amritsar. By way of impugned orders the prayer made on behalf of the CCL for grant of bail has been dismissed.

The earlier petition preferred by the petitioner was dismissed as withdrawn by this Court on 28.05.2024 passed in CRM-M-21746-2024; which reads as under:

- “1. Learned counsel for the petitioner seeks to withdraw the present petition with liberty to approach the concerned Court by invoking the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015.
2. Dismissed as withdrawn with liberty as aforesaid.
3. Pending application(s), if any, shall also stand disposed off. ”



2. The case set out, in the FIR No.87 dated 21.09.2023 registered under Section 376 of Indian Penal Code (hereinafter to be referred as 'IPC'), Section 6 of Protection of Children from Sexual Offences Act, 2012 (hereinafter to be referred as 'POCSO'), and Sections 67(A) and 67(B) of the Information Technology Act, 2000 and Sections 354(C) and 354(D) of IPC (added later on), at Police Station Women, Amritsar (City) (as stated in the petition) is as follows:-

"Statement of Anmoldeep Kaur daughter of Dilbhag Singh resident of House No.190, Darshan Avenue, Near Khasla Bakery, G.T. Road, Amritsar, Mob. No.84370-21182, aged about 17 ¹/₂ years. It is stated that I am resident of the address above said address. Today, I have come for inquiry of complaint No.2455-PC/CD dated 13.09.2023. I am studying in 12 th Class in Vatika Public School, Near Amritsar. I am studying in the school in 5 th class since year 2016-2017. When I was in 5 th class I become friend of Varinder Singh @ Ravi who was studying in 4 th class. We were studying Tuition class together in Kanwar Technology which is near to our house. Due to that reason we were known to each other. In the year 2022 I was in 11 th class and Varinder was in 10 th class and Varinder alias Ravi had purposed me as he liked me and I denied his proposal. He started saying to me that my parents already died and I am residing with my uncle and aunty and they don't treat me good and don't give proper food. After hearing the same I accepted his friendship. On 05.02.2022 was my birthday and I had to give birthday party to my friends than Varinder told me that we together will go to the party on Scooty/Activa. He took me to Sultanwind Road instant of party. After reaching at Sultanwind, Ajit Nagar Activa was stand due to problem than Varinder's friend Rubal Sandhu came there who stated to repair the Activa and to take the rest at nearby known person. On saying of Rubal we went there and we found there a hotel Vintage. Ravi took me to first floor of hotel and started wrong activity with me forcibly which I denied. After some time Rubal took active there than Ravi left me Ajit Nagar Market. On 03.03.2023 Ravi took me to Hotel Vintage and made me understand for sex on the pretext of marriage. Thereafter, he done sex with me at three different places. Ravi used to take my mobile phone and he was aware about my password of ID unforgettable of Snapchat and Instagram. The photos and videos which were in my mobile have been transferred by Ravi to his mobile because my ID and password were with him. Ravi had



promised me to live together and marriage. In the month of August 2023 stated to break the friendship. Sometime later he asked me to meet but I refused. Between 21.08.2023 to 24.08.2023 Ravi made an Instagram ID ravianmol765 and uploaded mine and his obscene photographs on it. When I and my mother went to Ravi house where Ravi has deleted that ID. The compliant given to police station Sultanwind which was also settled. Thereafter, Ravi started harassing me by sending obscene photographs to my snapchat IDs manmeetkaur and rajputvani. On 06.09.2023 Ravi again created an Instagram Id anmolnravi and uploaded our obscene photos and videos. At that time it was private account. Regarding this we have made a complaint at 112 helpline. On 14.09.2023, the said Insta account made public resultantly general public was watching and following it. Due to that we defame on social media. Action be taken against who viral photos and videos on social media. Statement is correct. Sd/- Anmoldeep/ Palakdeep Kaur mother of victim.”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 21.09.2023 and is in custody since then. Learned counsel has submitted that the petitioner has been subjected to continuous harassment and humiliation by the complainant and the police, who have misused the legal process to instill fear and intimidate the petitioner. It has been further submitted that a thorough reading of the FIR reveals that the complainant and her mother visited the house of the petitioner, where the matter was amicably resolved. According to the learned counsel, the account under the ID i.e. ‘Ravianmol765’ was deleted and the issue was also settled at the police station, indicating that the dispute had been effectively resolved prior to registration of the FIR in question. Moreover, there is no medical evidence or any other proof available from which it may be decipherable that petitioner had committed any wrong act with the victim. The date of birth of the petitioner has been stated to be 07.11.2006 as per which the CCL is aged about 15 years and 03 months at the time of alleged offence. Learned counsel has further stated that after the completion of the



investigation, challan (final report under Section 173 of Cr.P.C., 1973) was filed on 15.11.2023 wherein total 20 prosecution witnesses have been cited. According to the learned counsel, both the Courts below have not appreciated the Social Information Report (SIR) in the right perspective and passed the impugned orders in a hasty manner without considering the settled principles of law. Learned counsel, while relying upon the statutory provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, has argued that the petitioner ought to have been released on regular bail in the facts and circumstances of the case.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail. According to the learned counsel, the petitioner has committed a heinous offence of sexual assault with the minor who is merely about 16 years of age.

5. I have heard counsel for the parties and have gone through the available records of the case.

6. It would be apposite to refer herein to a judgment of this Court passed in **CRR-2876-2023** titled as **Jatin vs. State of Haryana**, decided on 30.01.2024; relevant whereof reads as under:-

“10. As an epilogue to above discussion the principles of law that emerge are as follows:

(I) Ordinarily, a CCL will be entitled to bail under Section 12 of The Juvenile Justice (Care and Protection of Children) Act, 2015 except wherein:

(i) There appears to be reasonable grounds that such release is likely to bring the CCL into association with any known criminal; or

(ii) There appears to be reasonable grounds that release of such CCL may expose him/her to moral/physical/psychological danger; or

(iii) Such release would defeat the ends of justice.



For a Board to hold that a given case falls under above-said three exceptions, the Board is required to rely upon tangible material to so hold and mere apprehension would not suffice to decline bail.

(II) The gravity/seriousness of an offence shall by itself not be a reason for rejection of bail of a CCL unless it is shown that such release would defeat the “ends of justice.”

For instance; wherein a CCL is alleged to be involved in a gruesome murder or a barbaric sexual assault or serious terrorist/anti-national activity(s); the Board may be justified in declining such release since release would defeat the “ends of justice”. These situations are illustrative in nature as it neither desirable nor possible to exhaustively enumerate all such situations and each case is required to be considered by the Board in its own facts/circumstances.

(III) The Board while considering a plea for bail by CCL, shall obtain and look into the SIR (Social Investigation Report) obtained in terms of Section 8 of 2015 Act as also the attending circumstances of the case in hand such as status of the family members of the CCL, the atmosphere around the ordinary residence of the CCL, educational background of the CCL as also his family members etc. These factors are only illustrative in nature as it is neither possible nor desirable to exhaustively enumerate such like factors.

(IV) The Board, in case of rejection of bail of CCL on the basis of exceptions contained in proviso to Section 12(1) of the 2015 Act, is bound to accord reasons and briefly give the circumstances that have led to such rejections.

(V) An earnest effort ought to be made by the Board in expeditious decision of a plea for bail made on behalf of CCL and there should not be an inordinate delay in obtaining the SIR etc. since the matter pertaining to a CCL deserves to be dealt with exercising sensitivity, care and caution.”

Analysis (re facts)

7. The case set up against the CCL (who was aged about 15 years and 03 months at the time of alleged offence) primarily is that the victim came in contact with the petitioner-CCL at a tuition, in the year 2022, when the victim was in 11th standard and the petitioner-CCL was in 10th standard.

Thereafter, they both became friends and on the alleged date of occurrence

i.e. 05.02.2022, the petitioner-CCL took the victim on an Activa for



celebrating her birthday. Thereafter, the petitioner-CCL took the victim to Vintage hotel and tried to impose himself on her but the victim refused. Thereafter, on 03.03.2023, the petitioner again took the victim to Vintage hotel and had committed intercourse with her on 3/4 different occasions and made videos and clicked photographs and transferred the same to his phone. As the petitioner had the access of the user ids and password of instagram and snapchats accounts of the prosecutrix, he uploaded the obscene photographs on it. Subsequently, the prosecutrix and her mother reported the matter to the Police and the instant FIR was got registered. Final report has been presented against the CCL wherein 20 prosecution witnesses in total have been cited & thus the culmination of the trial/enquiry will take its own time. There is no material available on record to indicate that there is likelihood of the CCL coming into association with any known criminal or his being exposed to moral/physical/psychological danger. The Social Investigation Report (SIR) submitted in the matter, which has been produced in Court today, shows that the date of birth of the petitioner is 07.11.2006. The CCL's father has expired in the year 2008 whereinafter his mother had married to the younger brother of his father, who also has expired. The CCL has a younger sister from the second marriage of his mother. The CCL lives with his paternal uncle who is taking care of him and also paying his school fees and other expenses. The CCL has studied upto 10th class. The habits of CCL are watching TV/movies & he has same age group friends. As per the SIR, the reason for involvement of CCL in the alleged offence is due to lack of love and affection, moral support from the biological parents and due to peer group influence. As per the Social Investigation Report, the CCL has not been found involved in any other criminal case. The CCL has not been



used by any gangs or adults or group of adults or has been used for drug peddling; the CCL has not been subjected to any form of abuse; CCL is not a victim of any offence & that the CCL has never been involved in any kind of illegal activities. The learned JJB, Amritsar as also the learned Additional Sessions Judge, Amritsar appear to have rejected the bail of the CCL in question on the ground that there was sufficient material on record connecting the petitioner-CCL with the commission of crime. The material prosecution witnesses are yet to be examined and if the petitioner-CCL is released on bail, it will expose him to moral, physical or psychological danger and his release would also defeat the ends of justice. However, these findings appear to have been recorded on a mere apprehension and without any material/basis on record. On the contrary, a perusal of the Social Information Report reflects that it would be in the fitness of the things especially the overall interest of the CCL that he is released on bail. The mere nature of the offence alleged to have been committed by the CCL does not make it a case calling for rejection of the bail so as to preserve the ends of justice. The SIR highlights that the petitioner-CCL lacked adequate guidance and nurturing which could have played a pivotal role in his behavioral development. His upbringing, marked by the loss of his father and the absence of close parental supervision, are the factors which potentially make him more susceptible to negative influences. Furthermore, it is noted that the petitioner-CCL has not displayed any violent or aggressive behavior in his social interactions. The report further suggests that with appropriate intervention, counseling and rehabilitation, the petitioner-CCL has the potential to be reformed and reintegrated into society. Moreover, the petitioner is of tender age and being in custody for a



prolonged period is detrimental to the petitioner's mental and emotional well being. Moreover, the petitioner-CCL has no previous criminal record or history of deviant behavior and his continued incarceration may affect his moral character; jeopardize his career prospects and he may also be rendered jobless forever. Furthermore, the petitioner-CCL comes from a stable family background and denying him bail may lead to an unjust deprivation of the petitioner's liberty without final adjudication of guilt. This Court is accordingly of the considered opinion, that given the age of petitioner-CCL and the facts and circumstances of the case in hand, a reformatory approach rather than a punitive one would be more suitable for his rehabilitation and future growth. Consequently, the petitioner-CCL deserves to be enlarged on bail.

Decision

8. Accordingly the present revision petition is allowed and impugned orders dated 15.06.2024 and 30.07.2024 are set-aside. Petitioner-CCL is ordered to be released on bail on his furnishing requisite bail/surety bonds etc. to the satisfaction of concerned CJM/Duty Magistrate.

It is further directed that such concerned CJM/Duty Magistrate shall be at liberty to impose such further condition(s) as deemed appropriate by him/her while releasing the petitioner-CCL on bail.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.



10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.
11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

September 20, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No