

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

CRR No.2048 of 2023 (O&M)

Date of decision : 31.01.2024

Akashdeep

..... Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Simranjeet Singh, Advocate and
Ms. Kulwant Kaur, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab

PANKAJ JAIN, J. (ORAL)

1 By way of present revision challenge is to the order dated 25.07.2023 passed by Additional Sessions Judge, Tarn Taran affirming the order passed by Principal Judge, Juvenile Justice Board, Tarn Taran dated 31.05.2023 denying the bail plea of the petitioner.

2 The petitioner has been declared Juvenile vide order dated 02.03.2023 passed by ACJM, Amritsar.

3 He was booked in FIR No.200 dated 11.10.2022 originally registered for offences punishable under Sections 302/506/120-B/34 IPC and Sections 25-27 of Arms Act at Police Station Sadar Tarn Taran on the information received from Ajeeb Singh S/o Gurbachan Singh. However, offence under Section 34 IPC was deleted later on and offences under Sections 148/149/201 IPC and Section 25 (6,7,8) of Arms Act were enhanced. As per the allegations, levelled in the FIR it has been alleged as under :-

“Statement of Ajeeb Singh, son of Gurbachan Singh, resident of Rasulpur Police Sation, Sadar Taran Taran, aged about 56 years. Mobile number 90418-69578 stated that I am a resident of above said address. I run a dhaba and shop in the name of Fateh Collection at village Aladdinpur highway bridge opposite service road. I have two boys. The elder boy Gurjant Singh aged 30 years and the younger son Jobanpreet Singh who lives in Canada. Today dated 11-10- 2022 me and my son Gurjant Singh along with my brother- in-law's son Jagjit Singh son of Balwinder Singh resident of Jhamka are present on shop Fateh Collection. at around 4.00 PM that Gurkirat Singh alias Ghuggi son of Darshan Singh son of Jagir Singh resident of police station Shero, Sarhali and Ajmeet Singh son of Major Singh resident of Patti Desu Ki, Nowshera Pannua police station Sarhali entered our shop and asked my son Gurjant Singh to show the clothes, my son Gurjant Singh and Jagjit Singh were showing the clothes to both of them, then suddenly they both took out their pistols and fired directly on my son Gurjant Singh with the intention of killing him. When my son fell on the floor, I and Jagjit Singh, shouted "killed" Killed and then both accused ran away with their weapons while threatening. I saw my son Gurjant Singh who died on the spot due to bullet injuries. The reason for the grudge is that there was a dispute over the division of the house with my brother Nishan Singh, who was employed in the Punjab Police Department, who died due to an accident about a year and half year ago. Now his son Arshdeep Singh aka Bati has grown up and is relation to Lakhbir Singh @ Landa son of Niranjana Singh of Harike who is a famous gangster currently living in Canada. my nephew Arshdeep Singh often call from Lakhbir. Singh alias Landa used to threaten us and a few days ago a ransom of 20 lakh rupees was demanded from us. Now my nephew Arshdeep Singh has been caught by the Delhi Police few days back and he also suspects that we have betrayed him. That is why today at the request of my nephew Arshdeep Singh, Lakhbir Singh alias Landa gangster sent his men Gurkirat Singh alias Ghugi and Ajmeet Singh to our shop and killed my son Gurjant Singh by shooting him dead because we did not pay the ransom.. I left my brother-in-law's son Jagjit Singh to protect the dead body of my son Gurjant Singh. The statement has been written, heard which is correct.”

4 The precise allegation against the petitioner that can be discerned from the records is that he was instrumental in providing arms and ammunitions to accused Ajmit Singh and accused Gurkirat Singh @ Guggi

at the asking of one gangster Lakhbir Singh @ Landa (of Canada) to kill Gurjant Singh. It has been further alleged that after murder of Gurjant Singh, the weapons of offence were hidden by the present petitioner only.

5 The bail plea of the petitioner stands rejected by the Board observing that he is a drop out from the school and the act alleged shakes the conscious of the society and thus his release would defeat the ends of justice as he is likely to join association of the criminals again. The said order stands affirmed in appeal.

6 Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short of the 2015 Act) deals with bail to a child in conflict with law :-

“12. Bail to a person who is apparently a child alleged to be in conflict with law.—(1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or 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 person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer in-charge of the police station, such officer shall cause the person to be kept

only in an observation home 16[or a place of safety, as the case may be,] in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.”

7 The provision is a non-obstante clause. Section 12(1) of the 2015 Act mandates that a juvenile shall be released on bail and is mandatory in nature however the same is arrested by the proviso attached. The proviso attached with the provision contemplates that a juvenile shall not be so released if there appear reasonable grounds for believing that :-

- a) The release of the child in conflict on bail is likely to bring him into association with any known criminal; or*
- b) Expose him to moral, physical or psychological danger; or*
- c) Such release would defeat the ends of the justice.*

8 A belief can be said to be founded on reasonable grounds only if there is something tangible on the basis of which such belief can be formed. The expression 'reasonable grounds' has been dealt by Supreme Court in ***Chenna Boyanna Krishna Yadav Vs. State of Maharashtra (2007) 1 SCC 242*** to connote as under :-

“13. xxxxxxxx The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in

the provisions requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. xxx”

9 The same was also interpreted by Supreme Court in ***Prahlad Singh Bhati Vs. NCT, Delhi and another (2001) 4 SCC 280*** observing as under :-

“ xxx xxx xxx

It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not excepted , at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.

xxx xxx xxx”

10 In the present case, apart from reproducing the expression used in the statute there is no tangible material to support the conclusion arrived at by the authorities below, apart from the fact that the petitioner is a school drop out. The admitted scope of the 2015 Act is reformatory. In view of the matters related to bail plea of juveniles, the Courts are often faced with the dilemma as to whether the custody of the juvenile would render him incorrigible or would be reformatory. Mere allegation against the petitioner in the present FIR cannot be held sufficient to satisfy the definition of the word 'Association' used in Section 12 of the 2015 Act. There is no allegation of continuous association. The allegation with respect to the functioning of the petitioner as a gang member is still to be proved with cogent evidence.

11 Resultantly, this Court does not find that the prosecution has discharged the burden placed upon it by law for denying the bail to the present petitioner.

12 In view of above, present revision petition is allowed. The petitioner is ordered to be released on bail in accordance with law.

(PANKAJ JAIN)
JUDGE

31.01.2024
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No