

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-3085-2024
Reserved on: 04.12.2024
Pronounced on: 19.12.2024

Vansh Gulia **...Appellant**

Versus

State of Haryana and another **...Respondents**

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S.Ahluwalia, Advocate,
Mr. Agam Aggarwal, Advocate, for the appellant.

Mr. Aashish Bishnoi, DAG, Haryana.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
251	18.04.2023	Shivaji Colony, Rohtak	302, 307, 341, 201, 34 IPC and 25, 27 and 29 of the Arms Act

1. The appellant, incarcerated in the FIR captioned above and aggrieved by the dismissal of regular bail by the trial court, came before this Court under Section 12 of Juvenile Justice Act.
2. As per paragraph 6 of the appeal, it is mentioned that the accused-appellant was a minor child at the time of occurrence and per para 19 of appeal, the appellant was nominated as an accused in another FIR No. 43 dated 18.04.2024 under Sections 25,54, 59 of the Arms Act registered at Police Staiton GRP Rewari.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:-

“2. That the facts of the case are that on 17/4/2023 the police received information that incident of firing has been took place Balti Factory. Sunaria Road, Rohtak. On the basis of which police reached on the spot and from there police party reached in PGIMS, Rohtak and received the copy of MLR No. YS/TC/2023/022 dated 17/4/2023 pertaining to Ravinder S/o Chand (complainant). In which 4 fire arm injuries were mentioned. The MLR NO.YS/TC/2023/023 dated 17/4/2023 of injured Balwan S/o Peeru Ram R/o Sunaria Chowk, Rohtak was also received in which 1 fire arm injury has been

mentioned. It has also been reported that Sukhvinder S/o Chand had expired in this incident. Later on after doctor's opinion the injured Ravinder S/o Balbir Singh moved a complaint to the police to the effect that he has been running a Gym at Ashoka turn by the name OZONE. His brother Sukhvinder has been staying with him in the Gym. He has been running the Gym for the past five years. Four-five days before a squabbling had escalated of him at Suncity with accused Vansh. Vansh accordingly intimidated him to face the dire consequences of death. Accordingly on 17.04.2023 while he (Ravinder) alongwith his brother Sukhvinder and his maternal uncel Balwan was going at his house in a Swift Car bearing No. HR-12AP-4250, in the meantime at about 10.00 p.m. while he was passing through the Balti Factory, Vansh alongwith his friend Ajay @ Commando and 2-3 other boys stopped their vehicle. Ajay @ Commando son of Krishan was seated on the conductor seat, Vansh was on the back seat of vehicle. Two-three boys were also seated in the car. One accused was driving the vehicle. All four accused opened the fire upon him with intention to cause the death randomly. One bullet strucked to his (Ravinder) right elbow, second bullet strucked to his (Ravinnder) chest. His maternal uncle Balwan also sustained injuries on the right elbow. The complainant was driving the vehicle. His brother Sukhvinder was on the back seat and he also sustained bullet injuries on his neck, mouth and other parts of the body. The accused fled away from the spot. On the basis of said complaint case vide FIR No.251 dated 18/4/2023 U/s 302, 307, 341, 34 of IPC and 25, 27, 29 of Arms Act was registered against the accused at P.S.-Shivaji Colony, Rohtak."

4. The appellant's counsel prays for bail by imposing any stringent conditions and contends that further pre-trial incarceration would cause an irreversible injustice to the appellant and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It shall be appropriate to refer to the following provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015:

S 2(35) "juvenile" means a child below the age of eighteen years;

S. 2(12) "child" means a person who has not completed eighteen years of age;

S. 2(13) "child in conflict with law" means a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence;

S 2(33) "heinous offences" includes the offences for which the minimum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment for seven years or more;

S.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 available 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 1[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.

S.15. Preliminary assessment into heinous offences by Board.—(1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

Explanation.—For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14.

S. 18. Orders regarding child found to be in conflict with law.—(1) Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, 1[or a child above the age of sixteen years has committed a heinous offence and the Board has, after preliminary assessment under Section 15, disposed of the matter] then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, circumstances as brought out in the social

investigation report and past conduct of the child, the Board may, if it so thinks fit,—

- (a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;
 - (b) direct the child to participate in group counselling and similar activities;
 - (c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;
 - (d) order the child or parents or the guardian of the child to pay fine: Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;
 - (e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;
 - (f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;
 - (g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home: Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.
- (2) If an order is passed under clauses (a) to (g) of sub-section (1), the Board may, in addition pass orders to—
- (i) attend school; or
 - (ii) attend a vocational training centre; or
 - (iii) attend a therapeutic centre; or
 - (iv) prohibit the child from visiting, frequenting or appearing at a specified place; or
 - (v) undergo a de-addiction programme.
- (3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.

7. The relevant portion of the social investigation report is mentioned in the bail order passed by the Principal Magistrate, Juvenile Justice Board, Rohtak which reads as follows:-

“10. XXX. The psychologist submitted her report after examining the CCL V'. It is stated by her that CCL 'V' was oriented towards time, place and person. His eye to eye contact was established and sustained. During assessment session, he was calm and co-operative. His mood and affect was appropriate as per situation. His speech was clear and understandable. No history of any psychoactive substances use. No history of any

obsessive/compulsive/impulsive behaviour. No history of any delusion/hallucination. No history of any suicidal/homicidal behaviour. His insight and judgment is appropriate. He was attentive with goal oriented thinking process towards his present and future actions. It is concluded that CCL 'V' is mentally healthy."

8. Given the social investigation report, there is no reason to deny the bail to the juvenile offender.

9. The appellant is a minor; thus, one of the relevant factors would be to provide an opportunity to course correct. Even a prima facie perusal of paragraph Nos. 11 to 13 of the appeal needs consideration for bail. Given the above, the Juvenile appellant—in conflict with the law—is ordered to be released on bail on furnishing bonds by the father of the appellant with an undertaking to produce him on each and every date to the satisfaction of trial/Illaq/Duty Magistrate.

10. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

11. There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the appellant can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

12. **Petition allowed.** All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

19.12.2024
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Whether speaking/reasoned: Yes
Whether reportable: No.