

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-11865-2024 in/&
CRR-2433-2022 (O&M)

Date of decision:16.04.2024

Gurnoor Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Navmohit Singh, Advocate for the petitioner.
Mr. Anup Singh AAG Punjab.

SUMEET GOEL, J. (Oral)

CRM-11865-2024

Present application has been filed for placing on record the
Social Investigation Report dated 02.03.2024 as Annexure P-3.

Application is allowed as prayed for. Social Investigation
Report is taken on record as Annexure P-3, subject to all just exceptions.
Registry to tag the same at the appropriate place.

CRR-2433-2022

1. The petitioner-child in conflict-with-law (hereinafter referred to
as ‘CCL’) has filed the present revision petition challenging the order dated
10.08.2022 passed by learned Principal Magistrate, Juvenile Justice Board,
Rupnagar (hereinafter referred to as ‘Juvenile Justice Board’) and order
dated 23.09.2022 passed by learned Additional Sessions Judge, Kapurthala.
By way of the impugned orders the prayer made on behalf of the CCL for
grant of bail has been dismissed.

2. The case set out, in the FIR No.193 dated 06.07.2020 registered
under Sections 302, 328, 203, 376-D, 34 of Indian Penal Code (hereinafter to

be referred as 'IPC') and Section 6 of Protection of Children from Sexual Offences Act, 2012 (hereinafter to be referred as 'POCSO'), at Police Station City, Ropar (as stated in the petition by the petitioner) is as follows:-

"Statement of gurbaj son of dalbir singh r/o village Dalla age 31 years old) stated that I am a resident of the above address and I do Kirtan. My sister Rajbir Kaur was married to Sarup Singh, son of Gurdawar Singh, a resident of Dalla. She had three children from her womb. The elder girl is Prabhjot Kaur who is married, the younger one is Amanjot Kaur and the youngest boy is Anmoljot Singh. my sister Rajbir Kaur died two years ago and my brother-in-law got married to Mandeep Kaur six-months after my sister's death. She already had a boy Gurnoor Singh, who is about 15 years old and brought him along. She started harassing my nephews and nieces after a while. Children used to come and tell me about the harassment because we live in same village. So I told my brother-in-law Saroop Singh and Mandeep Kaur not to discriminate against them, but they did not budge. That's why I married my elder niece Prabhjot Kaur about 5-6 months ago by persuading my brother-in-law when she was 18 years old. She told me that her father and new mother used to beat her a lot. Amanjot Kaur and Anmoljot Singh were also beaten a lot. They could kill them at any time. That's why I used to go to my brother-in-law Saroop Singh's house to meet the children and I met Saroop Singh's wife Mandeep Kaur, she used to look at me badly and sometimes I would return without meeting the children because of her fear. On 26/06/2020 at 11 o'clock at night, I was going back home from my work, and I was passing by my brother-in-law Saroop Singh's house, I thought that it has been a long time since I met the children. When I reached my brother-in-law's house, there was a loud noise coming from inside the house. When I turned the knob of the outer door, the outer door was open. When I went inside, all the lights of the house were on I saw from grilled window that my Niece Amanjot Kaur was lying on the floor in the lobby and pillow was kept over her face Amandeep Kaur wife of Jasminder Singh son of Harbhajan Singh, resident of Mehjitpur and Mandeep Kaur wife of Sarup Singh resident of Dalla, both were pressing the pillow and my niece Amanjot Kaur's legs were held and pressed by my brother-in-law Saroop Singh. I shouted from outside the window to open the door, you have killed my niece. After hearing my shout, the three people took my niece from the lobby and took her inside the room and there was a very strong smell of some poisonous medicine that was coming from the lobby. After hearing me shout my brother-in-law Sarup Singh came out to me and put his head on my feet and said that we will not let Amanjot Kaur die, we will take her to the

hospital and get her treated. My brother-in-law made me swear on my dead sister, I cried and went back to my home. I was in shock and Since few days the picture of my niece has been revolving in my mind that they have done very bad to her, which Saroop Singh, Mandeep Kaur and Amandeep Kaur wife Jasminder Singh killed by giving her some poisonous medicine and suffocating her by putting a pillow over her mouth. I have got my statement recorded. This incident has been committed jointly by swaroop singh, mandeep kaur and amandeep kaur wife of jasminder singh. Action be taken Gurbaj singh”

3. Learned counsel for the petitioner has argued that the petitioner was arrested on 01.06.2022 and is in custody since then. Learned counsel has submitted that FIR was registered on the basis of false, fabricated and concocted version of complainant. Moreover, there is inordinate delay of 10 days in lodging of present FIR which makes the prosecution story extremely doubtful. It has been further submitted that 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-deceased. The date of birth of the petitioner has been stated to be 05.09.2005 as per which the CCL was aged about 14 years, 09 months and 21 days on the date of alleged offence i.e. 26.06.2020. Learned counsel has further stated that after completion of investigation, final report has been filed wherein total 37 prosecution witnesses have been cited. Learned counsel, while relying upon the statutory provision 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.

3.1 Learned counsel has further submitted that co-accused have been accorded the concession of bail by coordinate Bench of this Court vide orders dated 01.05.2023 and 20.01.2023 passed in CRM-M-6854-2023 and CRM-M-2381-2023 respectively while the petitioner, whose case is on much

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.

5. I have heard the learned 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 14 years, 09 months and 21 days on the date of alleged offence) primarily is that at the time of post mortem examination, the doctors had opined that the victim-deceased was subjected to physical assault and was subjected to intercourse before her death. After receipt of the report from the laboratory, Prabhjot Kaur, elder sister of the deceased, was associated in the investigation and on her statement accused Gurnoor Singh (CCL) had been taken into custody. Final report has been presented against the CCL wherein 37 prosecution witnesses in total have been cited out of which 04 have been examined. 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 submitted in the matter shows that the relationship of the CCL with his father, mother and siblings is cordial; the attitude of the CCL towards his classmates is normal; majority of the friends of CCL are of the same sex and are primarily of the same age group; attitude of the CCL towards his friends is normal; the CCL is living in a normal rural locality; the CCL has not been subjected to any form of abuse; CCL is not victim of any offence & that the CCL has never been involved in any kind of illegal activities. The learned

JJB, Kapurthala as also the learned Additional Sessions Judge, Kapurthala appear to have rejected the bail of the CCL in question on the ground that the allegations against him are serious & there is every likelihood that in case the CCL is released on bail, it may endanger his life. It has been further observed that there were high chances of CCL being exposed to moral/physical/psychological danger, in case of his being released on bail. 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 Investigation Report reflects that it would be in the fitness of 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. Moreover, his continued incarceration may affect his moral character; jeopardize his career prospects and he may also be rendered jobless forever. Having a fixed abode, it is unlikely that petitioner poses a flight risk and/or will flee from trial proceedings. This Court is accordingly of the considered opinion, that in the facts and circumstances of the case in hand, that the petitioner-CCL deserves to be enlarged on bail.

Decision

8. Accordingly the present revision petition is allowed and impugned orders dated 10.08.2022 and 23.09.2022 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

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

April 16, 2024
Ajay

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