



IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

105/225

CRR-1847-2024 (O&M)

Date of decision: 14.10.2024

Nxxxxxx

....Petitioner

V/s

State of Haryana

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. B.K. Bagri, Advocate for the petitioner.  
Ms. Priyanka Sadar, AAG Haryana.

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**SUMEET GOEL, J. (Oral)**

1. The petitioner-child in conflict-with-law (hereinafter referred to as 'CCL') has filed the revision petition challenging the order dated 29.08.2024 passed by Principal Magistrate, Juvenile Justice Board, Rewari (hereinafter referred to as 'Juvenile Justice Board') and the order dated 05.09.2024 passed by learned Additional Sessions Judge, Fast Track Special Court, Rewari. By way of 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.217 dated 25.08.2024 registered under Sections 74, 96, 123, 127(2) and 137(2) of Bharatiya Nyaya Sanhita (hereinafter to be referred as 'BNS') and Sections 8 and 17 of Protection of Children from Sexual Offences Act, 2012 (hereinafter to be referred as 'POCSO'), at Police Station Sector-6, Dharuhera, District Rewari (as stated in the petition) is as follows:-

*“To, SHO Sahib, Dharuhera, Sector-6, Learned Sir Ji, today in the morning time about 10.00 a.m. for prayer I go to plucking flowers. When I was plucking the flowers then one boy of my school and another was his friend. The name of that boy is Nxxx. They came with Breeza car and*



*asked me we will arrange flowers, thereafter sprayed some substance on the face thereafter I do not what happened when I gained consciousness I found herself in that Breeza car and my school mate was teasing with me, when I started weeping upon that I was told that she shall be dropped there however if she raise alarm at home than she shall be killed. On returned home, I narrated this to my father and with that car two motorcycles were also there. They used to laugh when they returned after dropping me and I narrated the number of vehicle to my father. I see the number of vehicle when they were returning after dropping me. The number of vehicle is HR-34L- 1695 and my age is 14 year. Sd/-Sxxx daughter of xxxxxx, resident of Village xxxxxx, Tehsil xxxxxx, District xxxxxxxx dated 25.08.2024, xxxxxxxxxxxx present address: xxxxxx City, Plot No.xxx, Sector-xxx, xxxxx.*”

3. Learned counsel for the petitioner has iterated that the petitioner was arrested on 26.08.2024 and is in protective custody since then. Learned counsel has submitted that the petitioner has been falsely implicated in the instant case with ulterior motive and mala fide intention as the victim herself initiated communication with the petitioner through Instagram and other social media platforms. Learned counsel has further reiterated that the victim in order to evade consequences from her family, the petitioner has been unjustly implicated, despite the fact that the victim is equally responsible. According to learned counsel, there is no substantiated evidence available against the petitioner that he was harassing the victim and the allegations appear to be contrived. Furthermore, it is trite law that the severity or gravity of the offence cannot be the sole criterion for denying the bail to a juvenile. The date of birth of the petitioner has been stated to be 14.07.2008 as per which the CCL is aged about 16 years and 01 month 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



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 by 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 State counsel, the petitioner has been neglected by his family and is roaming with antisocial element who has abetted the commission of the offence. It has been further submitted by learned State counsel that in case the petitioner is granted the concession of bail, there is every likelihood that he would come in association with co-accused and also exposed him to moral and psychological danger of committing the offence again.

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 16 years and 01 month at the time of alleged offence) primarily is that the victim, who claims to be 14 years old, alleged that while she was out plucking

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offering to help her pick the flowers. Thereafter, they sprayed something on the face of the complainant, causing her to lose consciousness. When the complainant regained consciousness, she found herself inside the car, where the petitioner and his friend were teasing her. As the complainant began to cry at that point of time, the petitioner along with co-accused offered to drop her wherever she wished but she was threatened to be killed if she reported the incident to anyone. Subsequently, the complainant informed the incident to her father and the instant FIR was got registered. Final report has been presented against the CCL on 30.09.2024 & 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 by way of CRM-39705-2024 today alongwith other documents, shows that the date of birth of the petitioner-CCL is 14.07.2008. The CCL has parents and has no sibling. The CCL is studying in 10<sup>th</sup> class in a private school. The habits of CCL are watching TV/movies and playing indoor/outdoor games, reading books, drawing/painting/acting/singing & he has friends of same age group. As per the SIR, the reason for involvement of CCL in the alleged offence is 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



Judge, Rewari appear to have rejected the bail of the CCL in question on the ground that allegations against the petitioner are very specific and hence there was sufficient material on record connecting the petitioner-CCL with the commission of crime. Moreover, if the petitioner-CCL is released on bail, it will expose him to moral, physical or psychological danger and his release would bring him in association with the co-accused who is also involved in the present case. 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 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. Moreover, the petitioner is of tender age and being in custody for some time which 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 and jeopardize his career prospects. The SIR highlights that the petitioner-CCL lacked adequate guidance and nurturing which could have played a pivotal role in his behavioral development. 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. Furthermore, it is noted that the attitude of the CCL towards his friends and neighbours is good. 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 29.08.2024 and 05.09.2024 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

October 14, 2024  
*Ajay*

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