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

CRR-2123-2024

Date of Decision: 12.12.2024

Yuvraj Singh (CCL)

...Petitioner

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Suneel Sharma, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

1. The petitioner has filed the present revision petition against the impugned order dated 24.09.2024 passed by the Court of the Principal Magistrate, Juvenile Justice Board, Panchkula, whereby, the application filed by the petitioner in a case arising out of FIR No.71, dated 17.02.2024, under Sections 17,8 of POCSO (Sections 6,14,15 of POCSO Act and 506 of IPC and Section 67 of IT Act were added later on), Police Station Chandimandir was ordered to be dismissed.

2. The FIR in the present case was registered on the basis of the statement made by Saroj Bala, mother of the victim and the same has been reproduced below:-

“Respected Sir, copy of statement is as, To, Incharge of Police post Ramgarh, Respected Sir, it is respectfully submitted that I, Saroj Bala, W/o Pravesh Kumar, resident of Near Gurudwara, Village Mankiya, district Panchkula. I have 2 children in which



elder daughter namely Sanjana, aged 16 years and younger son namely Robin is age of 12 years. My younger son Robin read in class 6th in Sanskrit School, Sector 26, Panchkula. My son after coming back from school daily goes for playing out side. Yesterday night my son Robin cried and disclosed me that before 15 days ago, a boy namely Yashu S/o Rajesh Kumar living in the neighbor did the unnatural sex without the consent of my son forcefully at about 3:00 PM at his house. Instead of this, my son told me that before 10 days he went to the house of Vikas S/o Sucha Singh at about 2:00 PM for playing and there Sandeep @ Goli S/o Davinder Singh was also present and on that time Vikas called my son in the prayer room and locked the room and there Sandeep @ Goli did the unnatural sex with my son without his wish and forcibly. My son was very much scared. It is humble requested that action should be taken against the above 3 persons for the commitment of unnatural sex with my son. Sd/- SarojBala”.

3. Learned counsel for the petitioner contends that the petitioner and the victim are neighbours and the allegations have been levelled by the complainant due to enmity between both the families. Learned counsel further contends that even on the date of occurrence, the petitioner was not present at the place of incident and in the alleged CCTV footage, the petitioner was not visible. In fact, he had gone to Patiala with his father. He further contends that the allegations were levelled against a person namely Shivjot also, but he has not been involved by the police as his real uncle is a police official. Learned counsel further contends that the petitioner was arrested in the present case on 19.02.2024 and is in custody for the last about 10 months. Still further, the alleged occurrence had taken place more than 10 days prior to the lodging of



the FIR. He further placed reliance on the MLR (Annexure P-3) of the victim, in which it has been mentioned that there is no anal crack, no tear, no active bleed, anal tone normal, anal reflex was present and as per the surgical examination, no blood staining was either on the finger. Thus, the petitioner has been falsely involved in the present case.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner and had prayed for dismissal of present revision petition.

5. I have heard learned counsel for the parties and perused the record carefully.

6. This Court has held in the matter of **“Amritpal Singh @ Nikku Vs. State of Punjab”, 2020 (4) RCR (Criminal) 854** and the same has been reproduced below:-

9. *Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as 'the Act') reads as under :-*

"12. Bail of juvenile - (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is 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 [for placed under the supervision of a Probation Officer or under the care of any fit institution or fit person] but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.



(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

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

10. A bare reading of the provisions reproduced herein above would make it apparent that an exception has been carved out for declining the bail to the juvenile who is in conflict with law i.e. he or she is likely to come in association with any known criminal or upon release on bail would expose such juvenile to moral, physical or psychological danger or that release of the juvenile would defeat the ends of justice. For invoking such exception, there has to be some material before the competent authority on the basis of which, it can be held that the release of the juvenile in the present case would fall within the exception recognised under Section 12.

*13. It would be useful to refer to the judgment passed by a coordinate bench of this Court in **Atul Kumar and another v. State of Haryana, 2003(4) RCR (Criminal) 404**, wherein Section 12 of the Act has been considered. In the facts of Atul Kumar's case (supra) the offence attributed to the juvenile was under Sections 302, 323, 147 and 149 IPC and while holding the juvenile therein to be entitled to the concession of bail, it was held as follows :-*

"I am further of the view that there has to be some evidence on record showing that after the release on bail, the petitioners are likely to come in association with any known criminal or their



release on bail would expose them to moral, physical or psychological danger or that their release would defeat the ends of justice. In a given case if the parents of the petitioners are also criminals either ex-convicts or members of a gang, it may be possible for the Court to refuse bail. Another example could be whether the petitioners have repeated the crime showing lapse on the part of the parents after their release while on bail, then the case may be covered by the exceptions carved out under Section 12 of the Act. However, in a case like the one in hand, where no material has been placed on record to show that the release of the 'juvenile in conflict with law' would defeat the ends of justice or any other exception, the petitioners cannot be denied the benefit of bail merely on the basis of conjectures or opinion formed by the prosecution or the Court. Reliance in this regard could be placed on the judgments in the case of Sahabuddin @ Shabboo's case (supra) and Sanjeev Kumar's case (supra)."

7. In view of the above referred discussions, the present revision petition is allowed and the impugned order(s) dated 24.09.2024 passed by the Court of the Principal Magistrate, Juvenile Justice Board, Panchkula and order dated 10.10.2024 passed by the Court of Additional Sessions Judge, Panchkula are set aside. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

12.12.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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