

2025:PHHC:069922



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

CRR-246-2025 (O&M)

Date of Decision: 22.05.2025

Jashanpreet Singh @ Silli

...Petitioner

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Ms. Amarjot Kaur, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present revision petition against the impugned judgment dated 08.11.2024 passed by the Court of Additional Sessions Judge, Amritsar and the order dated 15.06.2024 passed by the Court of Principal Magistrate Juvenile Justice Board, Amritsar, whereby, the application for grant of bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, (hereinafter to be referred as 'the Act') filed by

the petitioner was ordered to be dismissed in a case arising out of FIR No. 0014 dated 18.04.2024 under Section 377 of IPC and Section 4 of POCSO Act registered at Police Station Airport, Amritsar, District Amritsar.

2. Learned counsel for the petitioner contends that the alleged occurrence had taken place on 14th April 2024 whereas the FIR was registered against the petitioner on 18.04.2024 after a delay of four days and this delay was utilized in concocting a story against the petitioner so as to ensure his false implication. He further contends that even with the intervention of the respectables, the differences between both the parties were sorted out and a compromise deed was also prepared on 13.08.2024. In fact, the FIR was got registered by the complainant due to some misunderstanding. The petitioner was arrested in the present case on 18.04.2024 and is in custody for the last more than 01 year and 01 month. Even, during the course of trial, the prosecution has examined Ms. J. Kaur, mother of the alleged victim and she did not support the case of the prosecution. Consequently, further custody of the petitioner will not serve any purpose.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that during the investigation, it has been found that the petitioner had taken away the victim and committed

carnal intercourse with him and threatened him. Even, the medical record duly supported the case of the prosecution and the present petition deserves to be dismissed by this Court.

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

5. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, provides for the provisions to grant of bail to a child, who is in conflict with law and the same has been reproduced below:-

“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 [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. In the scheme of enactment, it can be seen that Section 12 contains an imperative mandate to release a child on bail, when he is apprehended or detained in connection with an offence and it is a special provision, which stand to the exclusion of the Code of Criminal Procedure, Section 5 of the Cr.PC contained a saving clause, which reads thus:-

“5.Saving:- *Nothing contained in this Code shall, in the absence of specific provision to the contrary, affect any special or local law for the time being in force, or any special jurisdiction or power conferred or any special*

form or procedure prescribed, by any other law for the time being in force.”

The parameters for considering an application for bail filed by a juvenile under Section 12 of the Act of 2015 are clearly distinguishable from the application filed under Section 439 of Cr. PC and after following the procedure as prescribed under the Act i.e. from Sections 15 to 18 when a decision is taken to try a juvenile as an adult, the issue that arises for consideration is upon, such a contingency, whether the benefit of Section 12 can be denied to him.

Even when a child is sent up for trial as an adult before a Children’s Court, the child does not become an adult or ‘major’, but is only to be treated differently considering the heinous nature of the offence alleged and consequent need for a stricter treatment of the offender, though still as a juvenile in conflict with law. It must be borne in mind that the Legislature has created this categorization based upon an assessment of the child’s mental and physical capacity to commit such offence, ability to understand the offence. If the intention of the Legislature was that upon such assessment, the child would de-jure become an adult, then the question of there being a separate Children’s Court to try him with specific safeguards provided for the trial would not arise. That however is not the case”.

6. In fact, the provisions of Section 12 of the “Act” are beneficial piece of legislation and its provisions are aimed at making available the benefits of the “Act” to the neglected or delinquent

juveniles. The only embargo for not releasing such a person on bail is the proviso, which prescribes that the release is likely to bring that person into the association with any known criminal or expose the said person to moral, physical or psychological danger or the person/persons release would defeat the ends of justice.

7. In the present case, it appears that the Courts had rejected the application without adverting to the statutory mandate of Section 12 of the “Act”. Even, no doubt, the allegations were serious, but he was continuing in custody for the last 01 year and 01 month, which may bring him in association with known criminals.

8. In view of the above discussion, the present revision is allowed and 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.

9. It is further ordered that the petitioner shall attend the trial on regular basis and shall also report to the Probation Officer once in every two months and his performance and conduct shall be monitored by the Probation Officer. Apart from that, on being released on bail, the petitioner shall furnish his contact number and residential address to the Investigating Officer as well as the trial Court and shall also keep them updated, in case there is any change.

10. The above observations have been made, only for the limited purpose of disposal of the present bail application and nothing

stated above shall be construed as an expression on the merits of the case and the trial Court shall decide the trial on the basis of the material placed before it.

11. All pending applications, if any, are disposed off, accordingly.

22.05.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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