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

CRR No.409 of 2025 (O&M)

Date of Decision: 14.05.2025

Reserved on: 29.04.2025

Rxxxxx

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Abhimanu, Advocate,
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana,
for the respondent-State.

MANISHA BATRA, J.

1. The instant revision petition has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (For short "Act, 2015") filed by the petitioner against the order dated 10.12.2024 passed by the learned Principal Magistrate, Juvenile Justice Board (JJB), Charkhi Dadri arising out of FIR No.190 dated 28.08.2024 registered under Sections 61, 103(2), 115, 140(1), 190, 191(3) and 238(a) of the Bharatiya Nyaya Sanhita, 2023 (For short "BNS") and Section 75 of the Act, 2015 at Police Station Badhra, District Charkhi Dadri, whereby an application for grant of regular bail as filed by the petitioner who is a child in conflict with law, had been dismissed as well as the order dated 04.01.2025 passed by the Appellate Court in Criminal Appeal

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No.CRA/90 of 2024, whereby the order of JJB was affirmed.

2. Brief facts relevant for the purpose of disposal of the present petition are that on 27.08.2024, the complainant Sajjauddin recorded his statement to the effect that he was a rag picker and used to live in a slum area at Jui Road, Badhra, along with his relatives. On the same day, some persons came in his vicinity and started saying that the complainant and his neighbourers used to eat beef. Thereafter, those persons took the complainant and others to the police station. While he was at the police station, some youths went to the hut of his brother-in-law Sabir who was also residing in the same vicinity and took him along with them on the pretext of selling scrap material to him. When Sabir along with his acquaintance Aasirurddin reached there, 4-5 youths opened an assault upon them, abducted them and then killed Sabir. He alleged that they threw the dead body of Sabir and also caused injuries to Aasirurddin. He disclosed the names of some of the assailants. The aforementioned FIR was registered. Investigation proceedings were initiated. It was revealed that the accused who were members of Gau Raksha Dal had convened a meeting on 25.08.2024 to close the meat shops and to check as to whether the occupants of the hutments in the slum area of Badhra used to consume beef or not and they were the persons who were involved in the crime.

3. As per the further allegations, the postmortem examination of dead body was conducted. The injuries found on the dead body were opined to be the cause of his death. The petitioner and another child in conflict with

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law “G” (name withheld) were detained on 28.08.2024. They were joined into the inquiry. They demarcated the place of occurrence and admitted their involvement in the crime. The co-accused were also arrested. After completion of investigation, challan against the co-accused and report against the petitioner had been produced. The petitioner is facing inquiry before the JJB. He had moved an application for grant of regular bail which was dismissed by JJB vide order dated 10.12.2024. Appeal filed by him has also been dismissed by the Appellate Court.

4. It is argued by learned counsel for the petitioner that the impugned orders are not sustainable in the eyes of law and are liable to be set aside as while passing the same, the learned Principal Magistrate JJB and First Appellate Court did not consider the fact that the petitioner was not named in the FIR and no specific act had been attributed to him. No recovery has been effected at his instance. He was only 15 years and 10 months old as on the date of incident and being a juvenile, was entitled to be extended benefit of bail as a matter of right. Keeping in view the provisions of Section 12 of the Act, 2015, the gravity of the allegations could not be considered to be a ground for denying his release on bail. The Social Investigation Report had not been taken into consideration. The learned Appellate Court did not appreciate the fact that there was no tangible material to show that there was any reasonable ground for believing that the release of the petitioner was likely to bring him into association with any known criminal, or exposed him to any moral, physical or psychological

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danger or that his release would defeat the ends of justice. It is, therefore, argued that the impugned orders are liable to be set aside.

5. Written response/reply has been filed by the respondent-State. It is argued by learned Assistant Advocate General, Haryana that there are serious and specific allegations against the petitioner. He committed an act of gruesome nature. The CCTV footage of the camera installed in the vicinity clearly showed the cruelty meted upon the victim. The victim was clearly visible in the said footage. The weapon of offence has been recovered at his instance. His release would certainly bring him into association with known criminals and would defeat the ends of justice. The findings as given by the JJB and Appellate Court are well reasoned and no ground had been made out to interfere with the same. With these broad submissions, it is argued that the revision petition merits dismissal.

6. This Court has considered the rival submissions.

7. It is not in dispute that the petitioner was below the age of 18 years at the time of commission of the subject crime which is undoubtedly a heinous crime. Section 12 of the Act, 2015 contains a mandate to release a child in conflict with law on regular bail when he is apprehended or detained in connection with an offence. The rule in Section 12 of the Act, 2015 sanctioning bail universal to every child in conflict with law presupposes that there is a prima facie case against him in the assessment of the Board or the Court based on the evidence placed at that stage. It is where a case against a child in conflict with law is prima facie made out that the rule in Section 12 (1) of the Act, 2015 that sanctions bail as a rule, except the three

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categories contemplated by the proviso, comes into play. These three categories are that there is reasonable ground for believing that the release is likely to bring the child into association with any known criminal, or; that it will expose him to moral, physical or psychological danger, or; that his release defeats the ends of justice. The Hon'ble Supreme Court in **Jitendra Singh @ Babboo Singh and another v. State of U.P.**, 2013 (11) SCC 193, had observed that ordinarily a juvenile in conflict with law shall be released on bail but he may not be so released if there appear to be 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.

8. In **Xxx v. The State of Rajasthan and another**, Criminal Appeal No.1567 of 2023 decided by Hon'ble Supreme Court on 17.05.2023, it was observed that while granting bail to a juvenile, it is necessary for the Juvenile Justice Board to apply its mind to the question as to whether such juvenile can stay with his parents as per the social investigation report. A deeper inquiry is also required to be conducted after considering the status of other family members of the juvenile, the surroundings around his house and other relevant factors. A bare perusal of contents of Section 12 of the Act, 2015 read in the light of the ratio of law as laid down in the above cited authorities reveals that the legislature clearly stipulates that a child in conflict with law is entitled to be released on bail except under the circumstances when some tangible material is brought on record by the

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prosecution or there are reasonable grounds for believing that his 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. Meaning thereby that a child in conflict with law is entitled to bail as a rule except where the categories contemplated by proviso to Section 12 (1) of the Act, 2015 come into play. At the same time, no indefeasible right exists in his favour for grant of bail under the Act, 2015.

9. In the instant case, the allegations against the petitioner are that in furtherance of the common intention with the co-accused, he opened an assault upon the victim and Aasirurddin, abducted them and had killed Sabir, thrown his dead body and also caused injuries to Aasirurddin. The social background report of the juvenile had been obtained by the JJB a copy of the same has been placed on record by the respondent as Annexure P-5. A perusal of this report shows that the petitioner was having lack of interest in the school activities though he was studying in a school. He had been living with his family members. Nothing is reflected from this report to show that his release on bail was going to expose him to any moral and psychological danger or will bring him into associatioin with any known criminal or would defeat the ends of justice. The learned Additional Sessions Judge observed that since the petitioner was involved in an act of gruesome murder which shocked the conscience of human being, hence he was not entitled to be given benefit of bail.

10. In the considered opinion of this Court, the findings so given by

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the JJB and the Appellate Court 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 petitioner that he is released on bail. The mere nature of the offences alleged to have been committed by the petitioner does not make it a case calling for rejection of bail so as to preserve the ends of justice. Rather in the opinion of this Court, his continued incarceration might not only affect his moral character but would jeopardise his career prospects as well. In the given facts and circumstances, in the considered opinion of this Court, the impugned orders rejecting the prayer made by the petitioner are inappropriate and as the JJB and the learned Appellate Court are not shown to have exercised the jurisdiction vested in them in terms of the object of the Act, 2015 and as such, these orders are liable to be set aside as it would in the fitness of the things and in the interest of the petitioner to release him on bail since the ends of justice cannot be considered to be defeated only keeping in view the nature of the offences.

11. Accordingly, the revision petition is accepted. The impugned orders are set aside. The petitioner is ordered to be released on bail and he be given in custody of his father/guardian, on his furnishing personal bonds and two sureties bonds of the like amount each to the satisfaction of the JJB/Court concerned with the undertaking that the father/guardian shall keep the petitioner away from unsocial and criminal elements, will look after his



health, keeping in mind his mental and social status. The father/guardian of the petitioner will also give an undertaking that on being released on bail, he shall ensure the presence of the petitioner during trial whenever so required.

12. In case of breach of any of the conditions imposed upon the petitioner or upon showing any other sufficient cause, the State/complainant shall be at liberty to move application for cancellation of bail of the petitioner.

13. Office is directed to transmit a certified copy of this order to JJB/Court concerned for information and necessary compliance.

14.05.2025	(MANISHA BATRA)
manju	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No