



CRR-975-2025 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRR-975-2025 (O&M)

Date of decision: April 08,2025

Ravinder

....Petitioner

versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present:- Mr. Madan Sandhu, Advocate for petitioner.

Ms. Mayuri Lakhanpal Kalia, DAG, Haryana.

SANJAY VASHISTH, J. (ORAL)

1. Since, present bail petition has been filed by a Juvenile (Child in Conflict with law), aged 16 years 02 months and 20 days at the time of incident, it has to be treated under the provisions of the Juvenile Justice(Care and Protection of Children) Act, 2015 (for short 'JJ Act'). As per Section 12 of JJ Act, the plea of bail is required to be firstly, considered by the Juvenile Justice Board and any such order is appealable under Section 101 of JJ Act before the Court of Sessions. It is thereafter, the revision petition is maintainable before the High Court by virtue of Section 102 of JJ Act.

Ignoring all the aforementioned provisions of the JJ Act, petitioner moved an application for regular bail i.e. BA/123/2023, which was dismissed by the Court of Additional Sessions Judge, Rohtak vide its order dated 07.02.2023. It is thereafter that petitioner filed CRM-M-27497-2023 (originally filed present petition), under Section 439 Cr.P.C., which is pending adjudication before this Court since May 2023. There is nothing appended or mentioned in the petition i.e. CRM-M-27497-2023, regarding filing of bail application before the Juvenile Justice Board, where

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the original jurisdiction lies, or any appeal thereafter before the Court of Sessions. Thus, as per the appended documents with the petition, petitioner, who is a juvenile, directly filed bail application before the Court of Sessions under Section 439 Cr.P.C., and on dismissal of the same, preferred the present petition i.e. CRM-M-27497-2023 seeking regular bail before this Court.

2. Admittedly, as per the findings recorded by the Juvenile Justice Board vide its order dated 30.08.2022, age of petitioner/CCL was of 16 years, 02 months and 20 days on the day of incident. On 07.04.2025, while hearing the petition, petitioner relied upon the bail order dated 22.08.2023 passed in ***CRR-1385 of 2023***, titled as, '***Prince Kumar Pathak Vs. State of Haryana***', by the co-ordinate Bench of this Court, vide which co-accused namely; Prince Kumar Pathak, aged 15 years, was also granted bail by this Court, after setting aside of the orders rejecting the bail plea of said juvenile, passed by the Juvenile Justice Board and the Court of Sessions.

3. On 07.04.2025, when petition (CRM-M-27497-2023) was being heard, Court was informed that order of the JJ board is 30.08.2022 and thereupon Court of Sessions passed its impugned order on 07.02.2023 declining the plea of bail. By assuming a situation that already both the Courts below have dealt with the plea of bail of the CCL before this Court, following order was passed on 07.04.2025:

"1. Plea of bail of the petitioner - Ravinder, aged about 17 years, was firstly rejected by the Juvenile Justice Board, vide order dated 30.08.2022, and thereupon, by the court of Sessions on 07.02.2023.

2. Though petitioner was required to file revision petition against both the orders, however, mistake has been committed, at the first instance, when the Regular Bail application was filed before the Court of Sessions and thereafter, before this Court, when the present petition filed in the form of Regular Bail Petition u/s 439 Cr. P.C.

3. Parameters requiring consideration for the purpose of plea of bail in the case of Juvenile are entirely different. Moreover, power u/s 439 Cr.P.C. as well as power under the Appellate jurisdiction and then under the Revisional jurisdiction, are not the same, as u/s 439 Cr.P.C.

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4. Be that as it may, considering the fact that due to the defect having been caused at the instance of the respective counsel, petitioner (juvenile) need not be deprived from consideration of his plea for bail, let the present petition be treated under the revisional jurisdiction.

Registry is directed to convert the present petition as a Criminal Revision Petition by registering and then allotting a fresh number under the Criminal Revision (CRR) category.

5. File be sent to the Registry for doing the needful and thereafter list this case tomorrow i.e. on 08.04.2025.

To be shown in the urgent list.”

This is how CRM-M-27497-2023 was converted to CRR-975-202 and same is listed today for its consideration and disposal.

4. In view of the proceedings explained hereabove, plea of bail of a juvenile could not though be entertained directly in its revisional jurisdiction, however, there being no such barring provision, taking note of the bail order passed qua co-accused namely; Prince Kumar Pathak in CRR-1385-2023 and considering the fact that petitioner is also a juvenile/CCL aged 16 years 02 months and 20 days, on the day of incident and that already petitioner has already suffered incarceration for a period of more than one year and nine months, this Court considers it appropriate to consider the plea of bail of the petitioner by invoking the revisional jurisdiction by this Court itself.

5. While converting the petition i.e. CRM-M-27497-2023 to Criminal Revision Petition(CRR), this Court is conscious of the fact that merely on technicalities, maintainability of the plea of bail should not be questioned in ordinary course and therefore, this Court has already invoked its power in the interest of justice, which otherwise also is provided in the statute (JJ Act 2015) apart the BNSS, 2023.

Thus, considering the factual aspects also, plea of bail of the petitioner, who is juvenile/CCL, is considered hereafter.

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6. Petitioner is stated to be of the age of 16 years and 02 months old juvenile at the time of crime in question and has been declined bail in a case FIR No.211 dated 28.03.2022, registered under Sections 302 read with Section 34 of the Indian Penal Code, 1860 (for short 'IPC') and Section 3(2)(v) of the Scheduled Caste and the Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'SC/ST Act'), at Police Station City Rohtak, District Rohtak.

7. As per case of the prosecution, on 27.03.2022, while Sunil (the complainant) was at his home, he received information that Subodh, his brother was declared brought dead by doctors. His brother had serious injury marks on his body. Deceased died of grievous injuries inflicted on him by someone. Upon verification, complainant got to know that Subodh Ram had sustained these injuries in Ram Ricchpal Colony. Subodh was murdered by being hit with a brick on his head. His brother never developed any enmity against anyone. Accused who were responsible for this crime, thus remained unidentified. During investigation, petitioner was arrested as a suspect in March 2022 and remained in custody uptill 10.01.2024, when he was released on interim bail.

8. Learned counsel for petitioner submits that petitioner has been falsely implicated on the basis of disclosure statement. At the time of alleged incident, petitioner was a juvenile. He submits that petitioner was not named in the FIR. He submits that as per medical report/ PMR of deceased, it was found that deceased was under influence of liquor. Deceased died of a fall as he hit his head on the road. There is no piece of evidence to show complicity of the petitioner in the commission of alleged offence. There is no eyewitness to the alleged occurrence. Learned counsel for petitioner further submits that per prosecution, in the CCTV footage,

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petitioner was allegedly seen running around the place of occurrence. There is no medical evidence regarding alleged physical assault on the deceased.

Counsel further submits that co-accused namely; Prince Kumar Pathak, has already been granted bail by the co-ordinate Bench of this Court vide order dated 22.08.2023 passed in CRR No.1385-2023.

9. On the other hand, learned State counsel, opposes the prayer of the petitioner and submits that petitioner has committed a serious offence. Learned Court below has rightly declined to grant any concession of bail to the petitioner. Clothes worn by petitioner at the time of occurrence stained with blood were recovered from the petitioner.

10. I have heard learned counsel for the parties and perused the paper-book.

11. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'JJ Act') reads as under:-

“Section 12. (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 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 subsection (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home 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.”*

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12. Learned Court below while declining bail to the petitioner has not considered the aforesaid provisions in right perspective. Bail to juvenile under Section 12 of the JJ Act, is a right and rejection thereof is an exception. It is also stated that challan has already been presented as investigation is complete *qua* the petitioner. Custody is no more required for any further investigation. Out of total 33 witnesses, 18 have been examined including complainant. Petitioner has not been named in the FIR by the complainant. No motive or enmity is alleged. He is alleged to be merely present around the spot of occurrence and has been arrested on the basis of CCTV footage. It is nowhere stated by the prosecution that any family member of the petitioner is having any criminal record in past or at present, any of them is indulged in illegal activities of any kind. It is also not borne out from perusal of the record that release of the petitioner is likely to bring him into association with any known criminal or expose to moral, physical or psychological danger or his release would defeat the ends of justice.

Petitioner was arrested in March, 2022 and thereafter, vide order dated 10.01.2024 passed by the co-ordinate Bench of this Court, petitioner was granted interim bail. This way he has remained inside for a period of more than one year and nine months.

13. Considering the facts and circumstances of the present case, petitioner is stated to be juvenile/CCL and already been granted the concession of interim bail by the co-ordinate Bench of this Court and thereafter continued on interim bail by this Court, and; co-accused namely Prince Kumar Pathak has already been granted the concession of bail by the co-ordinate bench of this Court, without commenting anything on the merits of the case, the instant petition is allowed for the purpose of grant of bail.

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14. Accordingly, order dated 10.01.2024 passed by this Court is hereby made absolute. However, it is clarified that petitioner is not required to furnish fresh bail bonds and surety bonds, if already submitted.

15. In case, petitioner is found to be involved or gets involved in any offence while on bail, the prosecution shall be at liberty to seek cancellation of his bail in the instant case.

16. Any observations made and/or submissions noted hereinabove shall not have any effect on merits of the case as the same are for limited purpose of bail hearing alone and learned trial Court shall proceed without being influenced with this order.

17. Pending application(s), if any, shall also stand disposed of.

(SANJAY VASHISTH)
JUDGE

April 08, 2025
Rashmi

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