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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2358-2024
Reserved on: 02.05.2025
Pronounced on: 14.05.2025

Gautam (minor) through mother ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anuj Arya, Advocate (Through VC)
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. Sajan, Advocate for
Mr. Rajesh Goyal, Advocate
for the complainant.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
1531	03.11.2023	City Panipat	302 IPC and 25 of Arms Act

Criminal Appeal CIS No.214/2024 CNR No.HRPP01-005092-2024 Date of decision: 10.07.2024
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1. The petitioner, who is a minor, incarcerated in the FIR captioned above had come up before this Court by filing the present revision petition under Section 401 CrPC, by challenging the orders dated 04.06.2024 passed by the Juvenile Justice Board, Panipat and order dated 10.07.2024 passed by the Additional Sessions Judge, Panipat, whereby his bail was rejected.
2. In paragraph 4 of the petition, the CCL (Child in conflict with law) declares that he has no criminal antecedents.
3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:
- “That the case of the prosecution in nutshell is that present FIR/P-2 was got lodged by Rajesh Kumar S/o Madan Lal by name against the revisionist on the allegations that the complainant's nephew namely Anshu aged about 16 years used to study in Aakash Coaching Centre situated at Bishan Swaroop Colony G.T. Road Panipat. On 03/11/2023, Anshul went*

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for the coaching in the morning, who had the classes after lunch i.e. 04:00 PM to 7:30 PM. One Vishal has intimated to Anshul's father on his phone that the revisionist has stabbed knife on left side of chest of Anshul who has been referred to Civil Hospital for treatment. On receiving information from his brother, the complainant reached at Civil Hospital Panipat where Medical Officer declared Anshul brought dead. Anshul has been murdered by revisionist at about 05:30 PM. FIR is already annexed as P-2 with the revision."

4. The petitioner's counsel prays for bail and submits that separation from parents and detention in protective care would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. It would be appropriate to refer to the following portions of the reply, which read as follows:

"That the role of the revisionist in the crime is that the deceased had man-handled with the revisionist some days ago so the revisionist was having grudge against the deceased. The revisionist had purchased a rubber-batten knife from the shop of co-accused Harbhajan Singh and kept it in his bag. As and when the revisionist used to leave for school he used to take the said knife from his bag to his pocket of pant with a motive to use it in the quarrel at any time taken place with the deceased. On 03/11/2023, the revisionist has kept the knife in right side pocket of his pent in routine manner. As the revisionist and the deceased had been taking coaching in evening shift in Aakash Institute Panipat. The revisionist had classes in Room No.4 at Ground Floor while the deceased had classes in Room No.15 at 2nd Floor. The revisionist had a break at about 5:30 PM and at that time the revisionist and some male-female students were present in the classroom. The revisionist's brown coloured bag, containing his 4 notebooks, 2 pen, 1 green-black coloured cover, knife of button and black coloured belt, was kept on Bench No.5. At about 05:30 P.M., the deceased with his friend came in the classroom of the revisionist and abused him by sitting with him, meanwhile, the revisionist has taken out the button-knife in anger manner and directly attacked on chest of deceased due to which the deceased got injured and taken his steps back side. When a classmate Vishal came to catch the revisionist but he was also pushed by the revisionist with his right hand meanwhile Anshul came outside of the classroom. The revisionist closed the said button-knife and kept it under last bench where he had attacked with knife on deceased in the classroom. His memo of statement is annexed as Annexure R-3 with the status report."

7. It shall be appropriate to refer to the following provisions of the Juvenile Justice (Care and Protection Of Children) Act, 2015:

S. 2(35) "juvenile" means a child below the age of eighteen years;

S. 2(12) "child" means a person who has not completed eighteen years of age;

S. 2(13) "child in conflict with law" means a child who is alleged or found to have committed an offence and who has not completed eighteen years

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of age on the date of commission of such offence;

S. 2(33) “heinous offences” includes the offences for which the minimum punishment under the Indian Penal Code (45 of 1860) or any other law for the time being in force is imprisonment for seven years or more;

S. 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 1[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.

S. 15. Preliminary assessment into heinous offences by Board.—(1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

Explanation.—For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14.

S. 18. Orders regarding child found to be in conflict with law.—(1) Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, 1[or a child above the age of sixteen years has committed a heinous offence and the Board has, after

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preliminary assessment under Section 15, disposed of the matter] then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Board may, if it so thinks fit,—

(a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;

(b) direct the child to participate in group counselling and similar activities;

(c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;

(d) order the child or parents or the guardian of the child to pay fine:

Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child's well-being for any period not exceeding three years;

(f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring the good behaviour and child's well-being for any period not exceeding three years;

(g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home:

Provided that if the conduct and behaviour of the child has been such that, it would not be in the child's interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

(2) If an order is passed under clauses (a) to (g) of sub-section (1), the Board may, in addition pass orders to—

(i) attend school; or

(ii) attend a vocational training centre; or

(iii) attend a therapeutic centre; or

(iv) prohibit the child from visiting, frequenting or appearing at a specified place; or

(v) undergo a de-addiction programme.

(3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences.

8. The date of occurrence was 03.11.2023 and the petitioner is a minor.

9. Per Section 12 of the Juvenile Justice Act, 2015, 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 CrPC, 1973/ BNSS, 2023 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 the care of any fit person. However, as per the

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proviso, such a person shall not be released if there appear to be 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. Given this, the following aspects have to be considered by the Juvenile board:

- 1) The release will likely bring the child into association with any known criminal.
- 2) Expose the child to moral, physical, or psychological danger.
- 3) The child's release would defeat the ends of justice.

10. While rejecting the bail, Ld. Additional Sessions Court relied upon the Social Investigation Report in the following terms:

"6. In the impugned order it was also observed that as per Social Investigation Report (SIR) juveniles behaviour towards his family was good but it was found company of juvenile was bad and he was in the habit of keeping arms and though image of family of was positive but his image was negative in the neighbourhood. Ld. JJB also recorded a reason that case was at the stage of evidence of prosecution and eye witness had yet not been examined and as such taking into account the SIR, nature of commission of offence and non examination of eye witness juvenile in conflict with law it would defeat the ends of justice if bail was granted to juvenile."

11. Given the above, the reasons are not in terms of the statutory requirement of Section 12 of the JJ Act.

12. Undoubtedly, the most grievous injury has been attributed to the petitioner, but he was under 15 ½ years of age at the time of the occurrence. Thus, he could have been separated from his lawful guardians only after meeting the statutory conditions of the JJ Act, which was prima facie not done.

13. Resultantly, the petitioner's custody be handed over to his parents subject to the condition that they shall be responsible for the petitioner's good behavior and shall ensure that the petitioner, who is a child in conflict with the law, does not repeat any offense. The petitioner will be released after his parents furnish a bond to the satisfaction of concerned board.

14. Consequently, the impugned order dated 04.06.2024 is set aside.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. There would be no need for a certified copy of this order for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify the authenticity, such an officer can also verify its authenticity and may

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download and use the downloaded copy for attesting bonds.

17. Petition allowed in aforesaid terms. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

14.05.2025
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Whether speaking/reasoned: Yes
Whether reportable: No.