



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

242

CRR-2686-2024

Date of decision: 13th February, 2025

Jatin (juvenile)

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Shobit Rapria, Advocate for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana and
Mr. Anil Kumar Chahal, DAG, Haryana.

Mr. P.K. Hooda, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The present revision petition has been filed against the order dated 24.09.2024, passed by the learned Principal Magistrate, Juvenile Justice Board, Sonipat (*for short 'the Board'*), whereby an application, filed by the petitioner, who is a child in conflict with law (*for short 'CCL'*), for grant of regular bail in case arising out of FIR No. 664 dated 26.12.2023, registered under Sections 148, 149, 201, 323, 341, 427 and 302 of IPC at Police Station Kharkhoda, had been dismissed as well as against the order dated 18.11.2024, whereby the appeal filed by the petitioner against the order of the Board had also been dismissed by the learned Additional Sessions Judge, Sonipat (*for short 'Appellate Court'*).

2. As per the allegations, on the night of 26.12.2013, the



complainant Omkar, who was running a fast food shop, had closed the same and came back home, when his servant Mohit, who used to stay in the shop made a mobile call to Virender (son of complainant) to inform that two youths had come to his shop to buy fast food and on his refusal, they had a scuffle with Mohit. They had also proclaimed that they had been sent by co-accused Sumit and Amit. The complainant further alleged that on hearing so, he along with his son Virender went to his shop and informed those two youths that no meal could be provided to them. He had come back home but sometime thereafter, on receipt of another call from Mohit, he went back to his shop along with his son Virender and nephew Dharmender. On the way, the present petitioner along with the co-accused intercepted them and opened an assault upon the complainant, his son as well as his nephew Dharmender. Injuries were caused to them with sharp edged weapons. The complainant and other injured were rushed to the hospital but Dharmender succumbed to the injuries. After registration of FIR, investigation proceedings were initiated. The CCL was detained on 05.03.2024. Now vide order dated 15.01.2025, passed by the Principal Magistrate of the Board, he is ordered to be tried as an adult before the Children Court, Sonipat. He moved application for grant of regular bail which was dismissed by the Board vide order dated 24.09.2024. Appeal had been filed against the said order which was dismissed by the learned Additional Sessions Judge, Sonipat vide order dated 18.11.2024.

3. It is argued by learned counsel for the petitioner that the impugned orders are not sustainable in the eyes of law as while passing the same, the learned Principal Magistrate of the Board and learned Additional



Sessions Judge did not apply their judicious mind. The fact that the petitioner was below the age of 18 years' as on the date of occurrence and his entitlement to grant of bail as a matter of right, had been ignored. He is in custody since 05.03.2024. The learned Principal Magistrate as well as the learned Appellate Court erred in observing that there were chances of petitioner's being exposed to social, moral, physical and psychological danger without there being any material on record to show so. The conclusion of inquiry/trial is likely to take time. There is no specific attribution to the petitioner and he has been nominated as an accused on false and vague allegations. His further detention would not serve any useful purpose. Therefore, it is argued that the impugned orders are liable to be set aside, the revision petition deserves to be accepted and the petitioner deserves to be extended benefit of bail. To fortify his arguments, learned counsel for the petitioner has placed reliance upon the judgment as '***Vishwas Vs. State of Punjab, 2021 (2) RCR Criminal (207)***' and the order dated 30.01.2024 passed by this Court in '***CRR-2876-2023 tilted as Jatin Vs. State of Haryana***'.

4. *Per contra*, learned Deputy Advocate General, Haryana has argued that the petitioner has been booked for commission of serious offences. The Board as well as learned Appellate Court have rightly declined his prayer for release on bail. There are chances of petitioner's absconding or being exposed to social, moral, physical and psychological danger. Moreso, his release might defeat the ends of justice. Accordingly, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable

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length and have gone through the record carefully.

6. It is not in dispute that the petitioner at the time of commission of the subject offences, was below the age of 18 years. He has been booked for commission of offences under Sections 148, 201, 323, 341, 427 and 302 read with Section 149 of IPC. The moot question which falls for consideration before this Court is with regard to the fact, as to whether, the order passed by the Board and the learned Appellate Court while rejecting the bail application of the petitioner is within the four corners of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act, 2015') or not? This question postulates rule for grant of bail for every child in conflict with law who is alleged to have committed a bailable or non-bailable offence, if he/she is apprehended or detained by the police and is being produced before the Board. Such child has to be released on bail with or without surety. The rule in this Section, 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 sanctions bail as a rule, except when the three categories contemplated by the proviso come into play. As per the proviso to this Section, a CCL shall not be released if there appears to be reasonable ground for believing that his/her 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.

7. From a bare reading of the provision of Section 12 of the Act, 2015, it appears that the intention of the legislature was to grant bail to a juvenile in conflict with law irrespective of the nature or gravity of the offence alleged to have been committed by him and the same can be declined only in cases where reasonable grounds are there 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. Reference in this regard can also be made to **Shiv Kumar @ Sadhu Vs. State of U.P., 2010 (1) ACC 616**, wherein it was observed that gravity of the offence has not been mentioned as a ground for rejection of bail under Section 12 of the Act, 2015. Similar observations have been made by other Co-ordinate Benches of this Court in **Krishan Kumar Vs State of Haryana, 2020 (2) RCR (criminal) 342**; **Vishal Vs State of Haryana 2020 (4) RCR (criminal) 475** and **Sanjeet Vs State of Haryana, 2020 (4) RCR (Criminal) 338** by holding that for invoking the exceptions of Section 12 of the Act, 2015, as culled out for declining bail to a juvenile in conflict with law, there has to be some material before the competent authority on the basis of which, it can be said that the release of the juvenile would fall within the exceptions recognized under Section 12 of the Act, 2015 and that the seriousness of offence as mentioned in the FIR would not be a ground to deny to the juvenile, concession of bail. In this regard,



reference can be made to *Dr. Subramanian Swamy and others v. Raju through Member, Juvenile Justice Board and another, 2013 (4) RCR (Criminal) 131, Jatin's case (supra) and Vishwas's case (supra)*, wherein similar observations were made.

8. On applying the aforementioned principles of law to the peculiar facts and circumstances of the present case, it has been revealed that the learned Principal Magistrate of the Board as well as learned Appellate Court while dismissing the application filed by the petitioner for grant of regular bail did not advert to the provisions of the Act, 2015 and the afore-discussed proposition of law and declined to grant benefit of regular bail to the petitioner by observing that he had played an active role in commission of offence of murder of the victim and if released on bail, he might be exposed to physical or physiological danger at the hands of family members and relatives of the deceased and further that there was possibility of his returning to illegal activities which would defeat the ends of justice. However, while holding so, the Board and the Learned Appellate Court ignored the fact that no material was available on record to indicate that there was likelihood of the petitioner coming into association with any known criminal or being exposed to moral, physical or psychological danger. It is also revealed that no Social Information Report (SIR) had been received by the Board though such report was necessarily required to be taken into consideration to show that it would be in the fitness of things to release or not to release the petitioner on bail. It is well settled proposition of law that Social Information Report sought in terms of Section 8 of the Act, 2015 is a very important material/factor which is required to be considered



by the Board while considering plea for bail under Section 12 of the Act, 2015 as observed by the Hon'ble Apex Court in '**XXX Vs. State of Rajasthan and another, criminal appeal No. 1569-2023 decided on 17.05.2023**' and by this Court in **Jatin's case (supra)**. It goes without saying that according to Section 13(1) (ii) of the Act, 2015, the probation officer has to be informed as soon as a CCL is apprehended and he is to prepare a Social Information Report. Such report has to be submitted before the Board and is vital for the inquiry to be done by the Board. Such report is required to enable the Board to come to a decision as to whether, there are any grounds of denying bail as per the proviso to Section 12 of the Act, 2015 as observed in **Vishwas's case (supra)**. However, in the present case, no such report had been received and taken into consideration by the board or by the learned Appellate Court, while arriving at the conclusion that the release of the petitioner on bail might expose him to physical or psychological danger or would defeat the ends of justice. In such circumstances, this Court is of the considered opinion that the rejection of bail of the petitioner by the learned Principal Magistrate of the Board as well as learned Appellate Court is inappropriate and the orders dated 24.09.2024 and 18.11.2024 suffer from material illegality and irregularity. The learned Board and the learned Appellate Court are not shown to have exercised jurisdiction vested in them while keeping in view the object of Act, 2015. Therefore, finding the impugned orders to be unsustainable, the same are set aside.

9. As per the discussion made above, the revision petition is allowed. The petitioner is ordered to be released on bail. Since, he has attained the age of majority, therefore, his release shall be subject to his



furnishing personal bonds and two sureties to the like amount to the satisfaction of the Court concerned/Board.

10. In case of breach of any of the aforementioned conditions, the State shall be at liberty to move application for cancellation of bail of the petitioner.

11. It is, however, clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

12. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

13th February, 2025
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |