

2025:PHHC:093753



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

**CRM M-17153-2025**

**Date of Decision:24.07.2025**

Arshdeep Singh

...Petitioner

Versus

State of Punjab

... Respondent

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

Present : Mr. Ravinder Bangar, Advocate  
for the petitioner.

Mr. Navdeep Singh, Deputy A.G., Punjab.

**N.S.SHEKHAWAT, J.**

1. The petitioner has filed the instant petition under Section 483 of the B.N.S.S., 2023 with a prayer to grant regular bail in case FIR No.66 dated 03.04.2022 registered under Sections 302 and 34 of IPC at Police Station Sadar Mansa, District Mansa.

2. The FIR in the present case has been registered on the basis of the statement made by Lachman Singh and the same has been reproduced below:-

*“Copy of statement, statement of Lachman Singh son of Maghar Singh son of Ramditta Singh, resident of Khiala Kalan, aged about 51 years, mobile No. 70878-10132. Stated that I am resident of aforesaid address and I am*

*an agriculturist. I, alongwith my family, am residing in the fields of village Khiala Kalan. I have two sons. My elder son Harpreet Singh is married with Amandeep Kaur, resident of Barnala. My younger son Manpreet Singh, who was aged about 20 years, was working in the pipe factory, at Barnala Road. About 10/12 days back he had left his job at the factory and was thereafter doing household work. Yesterday night, on dated 02.04.2022, my son Manpreet Singh was present at the house. Time was about 08:00 PM. Some unknown person came outside our house on a motorcycle. He called my son. My son told us that he is going to BHANDARA at Mansa and went with that unidentified person on his motorcycle. My son Manpreet Singh did not come back home till morning. I and Roop Singh, Ex. Panch, son of Kaur Singh, resident of Khiala Kalan, while searching for my son, reached at near VAIDAN WALA TIBBA at Choti Mansa Road that my son Manpreet Singh was lying dead. He was having injury marks of sharp weapon on his neck and jaw and backside and right side of his head and on his chest and he was having injuries on other parts of his body and his left hand finger was fractured. One blood stained SOTA was lying near the dead body and it seemed that injuries were inflicted with the same. My son Manpreet Singh has been murdered by some unidentified person/persons during the intervening night of 2/3-04-2022. I have left Roop Singh near the dead body and was coming to inform you that you, along with police party, have met me on the turn of road leading from Khinda Kailan to Choti Mansa and have got recorded my statement. This murder has been*

*committed by unidentified person persons by inflicting injuries. Such unidentified persons may be traced and legal action may be taken. I have got recorded my statement, the same has been read out to me and is correct. I am the complainant. Action may be taken. Sã-Lachman Singh, aforesaid, attested SI-Gurpreet Singh 80 BTRT, Sution House Officer, PS Sadar Mansa, dated 03.04.2022”*

3. Learned counsel for the petitioner contends that the FIR was initially registered against unknown persons and as per the complainant, Manpreet Singh, since deceased, had gone with certain unknown persons. However, surprisingly on 04.04.2022, the complainant, who is the father of the deceased, again made a supplementary statement, wherein, he stated that on 03.04.2022, he was perplexed and bewildered due to murder of his son Manpreet Singh. Later on, he came to know that Pardeep Singh and Arshdeep Singh (petitioner) used to visit his son at their home and he was confidant that they had murdered him due to some reason. On the one hand, the petitioner is in custody whereas, on the other hand, the prosecution has been able to examine only two witnesses so far. The testimony of PW1 Lachman Singh did not advance the case of the prosecution in any manner whereas PW2 Roop Singh has been declared hostile and was cross-examined by the public prosecutor. Learned counsel further contends that the petitioner is not in a position to influence the prosecution witnesses and the conclusion of the trial may take quite a long time.

4. Learned counsel for the petitioner further contends that the date of birth of the petitioner is 11.01.2005 and at the time of offence, he was a juvenile. Now, the investigation has been completed and the *challan* was presented in the competent Court of law. The petitioner was arrested in the present case on 08.04.2022 and is in custody for the last more than 02 years and 03 months.

5. On the other hand, learned State counsel has vehemently opposed the prayer made by the petitioner on the ground that the petitioner and Pardeep Singh @ Kharaji had committed the murder of Manpreet Singh. Even, fresh evidence had been collected against them to prove the charge against them.

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

7. The question that arises for determination is, whether on being tried as an adult, is the juvenile denuded of statutory right available to him under Section 12 of the Act. However, the said question is no more *res integra* and has been deliberated upon by several High Courts. Before I proceed to deal with the said decision, it would be necessary to reproduce the Section 12 of the "Act", which is a provision pertaining to the release of a child alleged to be in conflict with the law and it reads as under:

***"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.*

8. 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."*

9. 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.

10. In fact, the "Act" is a beneficial piece of legislation and it must be construed by taking into consideration the object behind its enactment, being to provide for the care, protection, treatment, development and rehabilitation of neglected or delinquent juveniles. It is a beneficial legislation aimed at making available the benefit of the Act to the neglected or delinquent juveniles. While construing the provisions contained in Section 12 of the "Act", which contemplates that a juvenile shall be released on bail notwithstanding anything contained in Cr.PC and Section 12 further provides that he may be released with or without sureties, or may even place under the supervision of Probation Officer or under the care of any fit person. The only embargo not releasing such a person on bail is the proviso, which prescribes that if there appears reasonable grounds for believing 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.

11. In the present case also, it is apparent that the Juvenile Court had overlooked the statutory provisions of Section 12 of the Act. In fact, the provisions of Section 12 of the Act are beneficial piece of legislation and the benefit should have been extended to the

petitioner. Even otherwise, in the present case, the petitioner was only allegedly accompanying Pardeep Singh @ Kharaji, main accused and no other role has been assigned to him. He was arrested in the present case on 08.04.2022 and is in custody for the last about 02 years and 03 months. Moreover, the petitioner was juvenile at the time of commission of offence.

12. Consequently, the present petition 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.

24.07.2025

amit rana

(N.S.SHEKHAWAT)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No