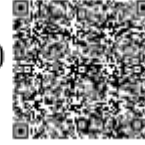


2025:PHHC:006660



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

255

CRR 15 of 2025

**Date of Decision: 16.01.2025**

Dev

...Petitioner

Versus

State of Haryana

... Respondent

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

Present : Mr. Parmod Kumar, Advocate, for the petitioner.

**N.S.SHEKHAWAT, J. (Oral)**

1. The petitioner has filed the present revision petition against the impugned order dated 24.12.2024 passed by the Court of Additional Sessions Judge, Rohtak and the order dated 13.12.2024 passed by the Court of Monika Jangra, Principal Magistrate, Juvenile Justice Board, Rohtak, whereby, the bail petition filed by the present petitioner under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter to be referred as the **'the Act'**) was ordered to be dismissed.

2. Learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case by the complainant just to wreck vengeance. The date of birth of the petitioner was 27.09.2007 and at the time of the alleged incident, the petitioner was aged about 16 years and 10 months. Even, the

complainant alleged that he was an eye witness and had seen Deepanshu, Himanshu, Sunil and Munim's brother, a resident of Sampla and six others, while they were firing and causing injuries to his son. However, the petitioner was not named in the FIR nor anything was mentioned against the petitioner with regard to his involvement in the present incident. The petitioner was arraigned as an accused on the basis of the disclosure statement made by Deepanshu, co-accused and except the said statement, police could not collect any evidence to indict the petitioner in the FIR. Even, as per the case of the prosecution, the petitioner was allegedly present at the place of the occurrence with a knife, however, from a perusal of the medical record, it is apparent that the injured had not suffered any injury with a knife and the petitioner has been made a scapegoat. Apart from that, as per the prosecution case, Deepanshu had allegedly fired at the injured and Deepanshu has already been arrested by the police. Still further, Sunil Kumar, co-accused was named in the FIR and against him specific allegations were also levelled and he has been granted the concession of bail by the Court of Additional Sessions Judge, Rohtak vide order dated 12.12.2024 (Annexure P-2). Similarly, another accused CCL (K) has also been granted the concession of bail by the Court of Additional Sessions Judge, Rohtak, vide order dated 24.12.2024 (Annexure P-3). The petitioner was arrested in the present case on 02.09.2024 and is in custody since

then. Even, the petitioner was not involved in any other case and his further custody will not serve any meaningful purpose.

3. Notice of motion.

4. Mr. Gurmeet Singh, AAG, Haryana accepts notice on behalf of respondent-State.

5. Mr. Parveen Kaushik, Advocate has put in appearance on behalf of complainant by filing his power of attorney, which is taken on record.

6. Learned State counsel assisted by the learned counsel for the complainant have vehemently opposed the submissions made by the learned counsel for the petitioner on the ground that the petitioner alongwith his co-accused had caused serious injuries on the person of the injured. Even, the injured is still under treatment and is also to be operated in future for the injuries suffered by him. Even, the family members of the accused are still threatening the witnesses in the present case and the present petition deserves to be dismissed by this Court.

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

8. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides for the grant of bail to a juvenile and the same has been reproduced below:-

**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 16 [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.*

9. A perusal of the above Section 12 of the Act would show that bail is the rule and not the jail, in a case of juvenile and the same is to be refused only in case Court comes to the conclusion on the basis of material that the case is covered under three exceptions as mentioned in Section 12 of the Act.

10. A Co-ordinate Bench of this Court in **CRR-1019-2020** titled as **“Gurkirat @ Gora Versus State of Haryana”** has held as under:-

*“Prayer in this revision petition is for setting-aside the order dated 31.05.2020 passed by the learned Magistrate as well as the order dated 01.07.2020 passed by the Appellate Court vide which the regular bail application of the petitioner in FIR No.99 dated 14.03.2020 registered under Sections 302, 323, 341 read with Section 34 and 506 of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Taraori, District Karnal was dismissed.*

*Brief facts of the case are that the FIR was registered on a complaint given by Lakhwinder Singh that he is doing labour work and is having two children. His son Aspi @*

*Happy was also doing the labour work with the complainant. About 01 year ago, Kulwinder Singh, father of the petitioner has levelled allegations on the son of the complainant that he had teased his niece and thereafter, a Panchayat was convened and the matter was compromised but the accused were having a grudge against his son namely Aspi @ Happy. On 13.03.2020 at about 07:00 PM, his son Aspi @ Happy along with his mother Harvinder Kaur and nephew of the complainant namely Gurpreet Singh have gone to take the medicine for Harvinder Kaur on a motorcycle bearing registration No.HR-05-BC-8967 and when they reached at Sambhi turn, then Kulwinder Singh, Gurkirat @ Gora (present petitioner) along with two other persons namely Karnail Singh and Balkar Singh waylaid them and thereafter, Balkar Singh, who was having a Binda in his hand, gave blow of same on the chest of the son of complainant. Then, Kulwinder Singh gave another Binda blow on the back of the son of the complainant, Karnail Singh gave Binda blow on the chest of the son of the complainant and the petitioner – Gurkirat @ Gora gave an iron pipe blow on the chest and back of the son of the complainant. Thereafter, all the assailants ran away from the spot and the injured was taken to hospital where he was medico legally examined and later on, he had died on 14.03.2020.*

*xxx xxx xxx*

*Learned senior counsel for the petitioner has submitted that as per the provisions of Section 12 of the Act of 2000, the intention of the legislature is to grant bail to*

*the juvenile irrespective of the nature or gravity of the offence, alleged to have been committed by him and the same can be declined only in case where reasonable grounds are there for believing that the release of juvenile is likely to bring him into the association of any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.*

*xxx xxx xxx*

*Reply by way of affidavit of the Investigating Officer is on record and as per the reply, it is stated that upon verification, it was found that the petitioner as well as his father have caused injuries to the victim whereas the two persons namely Karnail Singh and Balkar Singh, named in the FIR were found innocent.*

*Counsel for the State has placed on record the opinion regarding cause of death of the deceased, which is reproduced as under:*

*“The opinion regarding the cause of death has already been given in this case on 20.10.2020 that “the cause of death in this case are injuries and its complications”. In our opinion, it was a case of poly-trauma having Severe Acute Respiratory Distress Syndrome and Shock with Glasgow Coma Scale E1M1V1 as reported in the hospital record and the findings noticed during autopsy and histopathological examination of viscera of deceased corroborated with the hospital record. In our opinion, the complications due to injuries were Acute Respiratory Distress Syndrome followed by Cardiac Arrest.”*

xxx xxx xxx

*Counsel for the complainant, on the other hand, has argued that as per the FIR, there is an enmity between the family of the complainant and father of the petitioner Kulwinder Singh on account of teasing the daughter of Kulwinder Singh i.e. the sister of the present petitioner – Gurkirat @ Gora by the deceased Aspi@ Happy about 01 year ago, prior to the incident and the matter was compromised in the Panchayat. It is further submitted that since the petitioner is above 17 years of age, he should be treated as an “Adult” and therefore, his bail application be declined.*

xxx xxx xxx

*Accordingly, the present revision petition is allowed, the dated 31.05.2020 passed by the learned Magistrate as well as the order dated 01.07.2020 passed by the Appellate Court, are set-aside and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate.”*

11. Now advertent to the facts of the present case, it is apparent that the petitioner was allegedly seen at the place of occurrence with a knife, however, there are no corresponding injuries on the person of the injured. Still further, the petitioner is stated to be in custody for the last about 04 months and investigation has already been completed in the present case. Still further, while considering the bail application of a juvenile, this Court has to take into consideration the grounds mentioned in the said provisions of law. Thus, it implies

that no reasons other than those mentioned in Section 12(1) of the Act are valid for refusal of the concession of the bail. Even, the gravity of the offence has not been mentioned as one of the reasons for refusal of bail and this ground cannot be taken into consideration for rejection of request of bail. Both the Courts have failed to take into consideration the aforesaid reasons and the impugned are unsustainable.

12. Thus, in view of the above discussion, the revision petition is allowed and the impugned orders orders dated 24.12.2024 passed by the Court of Additional Sessions Judge, Rohtak and dated 13.12.2024 passed by the Court of Monika Jangra, Principal Magistrate, Juvenile Justice Board, Rohtak, are set aside and the present petitioner is ordered to be released on bail subject to furnishing bail/surety bonds to the satisfaction of the Principal Magistrate, JJB, Rohtak, subject to the following conditions:-

*“1. The petitioner is placed under supervision of the probationary officer, who shall file periodical reports over the Juvenile before the Board till the inquiry against him is completed in the proceedings.*

*2. The father of the petitioner shall stand as a surety for release of the petitioner on bail. He shall execute a bond for 50,000/- undertaking good conduct of juvenile and also in keeping him away from associating with criminal while he continues to be on bail in the present proceedings.*

3. *The petitioner and his father shall report before the Juvenile Justice Board as and when directed without default till the proceedings are over.*

4. *In the event of any adverse report filed against the juvenile by the probation officer or on any default or violation of the conditions imposed above, it is open to the Juvenile Justice Board to revoke the bail granted to the petitioner without having any further orders from this Court”.*

**16.01.2025**  
amit rana

**(N.S.SHEKHAWAT)**  
**JUDGE**

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