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

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CRR No. 226 of 2025 (O&M)

Date of decision: 22.04.2025

CCL 'L'

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Partap Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Sushil Jain, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (*for short 'the Act, 2015*) challenging the order dated 17.12.2024, passed by the Court of learned Additional Sessions Judge, Karnal (*hereinafter referred to as 'the appellate Court'*) in case arising out of FIR No. 696 dated 29.08.2024, registered under Sections 127(6) of Bhartiya Nyaya Sanhita, 2023 (for short 'BNS') (Sections 103(1), 238 and 61 of BNS were added and Section 127(6) of BNS was deleted later on) at Police Station Karnal Sadar, District Karnal, whereby an application filed by the petitioner for grant of regular bail had been dismissed.

2. Adumbrated facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of a complaint lodged by complainant Sohan Singh on the allegations that he was

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running a security agency in the name of the Alert Men Group Security Services. Two persons from his agency, namely Gurpreet @ Mann and Sagar @ Gullu, were posted as security guards in RA International Rice Mill. The victim Pawan was also working as Supervisor in the said rice mill. All three of them, i.e. Pawan, Sagar and Mann, were missing since 27.08.2024 and could not be found. On his complaint, initially a case under Section 127(6) of BNS was registered. Investigation proceedings were initiated. During investigation, the dead body of victim Pawan was recovered from a water tank situated in the premises of above said mill. Post-mortem examination of the same and inquest proceedings were conducted. The cause of death of the victim was opined to be head injury coupled with wound on chest. Accused Sagar @ Gullu and Gurpreet @ Mann were arrested on 05.09.2024. They suffered disclosure statements admitting their involvement in the murder of victim Pawan and also took the names of the present petitioner and co-accused Sahil, Prince and Aman. Accused Aman and Sahil were also arrested subsequently. In their respective disclosure statements, they too took the name of the present petitioner. The petitioner was detained on 17.09.2024. Inquiry was conducted and he confessed about his involvement in the murder of the victim. Investigation/inquiry stands completed and final investigation report against the petitioner and co-accused stands presented. The petitioner had filed an application for grant of regular bail before the Principal Magistrate, Juvenile Justice Board, Karnal (*for short 'the Board'*), which was dismissed, vide order dated 21.12.2024. Thereafter, the petitioner filed an application before the learned appellate Court with similar prayer, which too had been dismissed,

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vide impugned order dated 17.12.2024. Feeling aggrieved, the present petition has been filed by the petitioner.

3. It is argued by learned counsel for the petitioner that the impugned orders, as passed by the Board and learned appellate Court, are not sustainable in the eyes of law as while passing the same, they did not take into consideration the fact that the gravity of offences was not a criteria for denying benefit of bail to the petitioner. Being a juvenile, he was entitled to seek benefit of bail as a matter of right. The provisions of Section 12 of the Act, 2015 were fully applicable in his case. There was nothing on record to show that his release was likely to bring him into association of any known criminal or was likely to expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. It is further submitted that no specific act had been attributed to the petitioner. There is no eye-witness to the occurrence. The entire case is based on circumstantial evidence. No recovery has been effected from him. He lacked the maturity to participate in and comprehend the nature of offence alleged to be committed by him. He is in detention since 17.09.2024. The trial would take considerable time. All the witnesses are yet to be examined. Therefore, it is urged that the impugned orders are liable to be set aside; the petition deserves to be allowed and the petitioner deserves to be released on bail.

4. Reply has been filed by the respondent-State. It is submitted by learned Assistant Advocate General, Haryana, who is assisted by learned counsel for the complainant, that there are serious and specific allegations against the petitioner, who by hatching a conspiracy with the co-accused actively participated in the occurrence and committed murder of the victim by

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causing serious injuries to him. He was 17 years, 10 months and 09 days' old on the date of occurrence and was about to attain the age of majority. Thus, he was fully competent to comprehend the consequences of the action taken by him. The Board has rightly observed that his release would defeat the ends of justice. The trial has commenced and there is nothing on record to show that there would be any undue delay in conclusion thereof. It is, hence, argued that the petition does not deserve to be allowed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. The petitioner was undisputedly below the age of 18 years as on the date of occurrence. The moot question that falls for consideration before this Court is as to whether the impugned orders are within the four corners of Section 12 of the Act, 2015? This Section postulates rule for grant of bail to every child in conflict with law, who is alleged to have committed a bailable or non-bailable offence, if he is apprehended or detained by the police and is being produced before the Board. As per this section, such child has to be released on bail with or without surety. Further, as per proviso to this section, such child shall not be released if there appear to be reasonable grounds for believing that his 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.

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

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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 vs. Raju through Member, Juvenile Justice Board and another, 2013 (4) RCR (Criminal) 131***, wherein similar observations were made.

8. It may also be observed that the well settled proposition of law is that though the provisions of the Act, 2015 are meant to treat a child in conflict with law with care and sensitivity offering him a chance to reform and

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settle into the mainstream of society, however, the same cannot be allowed to be used as a ploy to dupe the course of justice while conducting trial and treatment of heinous offences as that would clearly be treated as an effort to weaken the justice dispensation system and hence, should not be encouraged. The object of the Act, 2015 is to achieve not only the welfare and betterment of juvenile by extending him services of reformatory nature but also to address the concern of society at large and as such, striking balance is necessary while considering the matter of bail of a juvenile from the angle of not only the interest of the child but demand of justice to the victim as well and the fact that a juvenile can be denied concession of bail in case the exigencies as specified in the proviso to Section 12 of the Act, 2015 are shown to be existing. Now analyzing the pleas as taken in the petition while keeping in mind the afore-discussed position of law, in the instant case, the allegations against the petitioner are that on night of 26.08.2024, he along with co-accused Prince, Masum and Aman had come to the premises of the said rice mill, wherein co-accused and victim Pawan Kumar had been working and had consumed liquor with the co-accused. On the same night, by hatching a conspiracy with co-accused, the petitioner along with them had assaulted the victim by causing injuries to him by giving kicks, fist and danda blows and when the victim had fallen unconscious and had died, then to cause disappearance of offence of his murder, the petitioner along with co-accused had tied a stone with the body of the victim and had thrown the same in a water tank existing in the premises of the rice mill. A perusal of the order dated 21.11.2024, passed by the learned Board, reveals that the social investigation report of the petitioner had been called, as per which, his mother

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had taken divorce about ten years back and he was living with his father. He was reported to be not disciplined. As per this report, he was negatively influenced by his peer group. The Board, while dismissing the bail application of the petitioner, had observed that though the gravity of the offence was required to be evaluated but looking into the family circumstances of the petitioner, he being living without his mother and given a liberal atmosphere at home being not monitored in terms of his movement and association with anti social elements, engaging in drinking and riding motorcycle without any license, the nature of role attributed to him and his being actively engaged in causing death of the victim in a gruesome manner, his release was likely to defeat the ends of justice. Though, learned appellate Court, while dismissing the bail application of the petitioner, did not specifically discuss the provisions of Section 12 of the Act, 2015 in particular, however, keeping in view the fact that the social background report of the petitioner had been obtained by the learned Principal Magistrate of the Board, as per which, he lacked proper discipline and was prone to negative influences. The petitioner was at the verge of attaining majority at the time of occurrence. He had sufficient mental capacity or knowledge of consequences of the acts attributed to him. He is alleged to have played an active role in the occurrence. The provisions of Section 12 of the Act, 2015 cannot be interpreted in a manner to give advantage to the petitioner only as in the peculiar circumstances, no case is made out to show that declining his release would defeat the ends of justice. Rather, in the opinion of this Court, his release would defeat the ends of justice. Keeping in view the discussion as made above, I find no reason to allow the present petition. Hence, the same is dismissed.

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11. However, it is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

22.04.2025

Waseem Ansari

**(MANISHA BATRA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No