
(2016) 10 P&H CK 0008
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 3005 of 2016

Lovepreet Singh @ Lovedeep Singh APPELLANT
Vs
State of Punjab RESPONDENT

Date of Decision : 04-10-2016

Acts Referred:

Juvenile Justice (Care and Protection of Children) Act, 2015 — Section 12
Penal Code, 1860 (IPC) — Section 148, Section 149, Section 307

Citation : (2017) 1 AICLR 39 : (2017) 2 CriCC 373 : (2016) 4 LawHerald 3466 :
(2017) 2 RCRCriminal 39

Hon'ble Judges : Hari Pal Verma, J.

Bench : Single Bench

Advocate : Veneet Sharma, Advocate, for the Petitioner; P.S. Madahar, AAG
Punjab, for the Respondent

Final Decision : Allowed

Judgement

Hari Pal Verma J. (Oral) - Petitioner Lovepreet Singh @ Lovedeep Singh, who is presently lodged in Observation Home, Hoshiarpur, has filed the present revision petition against the judgment dated 17.8.2016 passed by learned Additional Sessions Judge, Amritsar, whereby his criminal appeal against the judgment dated 26.7.2016 passed by the Principal Magistrate, Juvenile Justice Board, Amritsar was dismissed.

2. The petitioner, who is claiming to be a juvenile had filed an application seeking bail in FIR No.81 dated 1.7.2016, under Sections 307, 323, 506, 148 and 149 IPC and Section 25 of the Arms Act, registered at Police Station Lopoke, Amritsar before the Principal Magistrate, Juvenile Justice Board, Amritsar, however said application was dismissed with the observation that the petitioner was a member of unlawful assembly and is guilty to the equal extent as per section 149 IPC having common object. Further there is a danger that the juvenile might come into contact with the remaining accused who are yet to be arrested. Even the learned Additional Sessions Judge has reiterated the said observation vide

judgment dated 17.08.2016 that in case the petitioner is released on bail he would come into contact with the remaining accused who are yet to be arrested.

3. Learned counsel for the petitioner states that there is no allegation against the petitioner, which may attribute him the injuries punishable under Section 307 IPC. The only ground raised by learned Magistrate was that the petitioner was a member of unlawful assembly and, therefore, held guilty of offence to the equal extent under Section 149 IPC for having common object. He further states that the very object on which the petitioner has been declined bail that petitioner being juvenile may come into contact with the remaining accused, is not sustainable when there is no such material before the Court below. The petitioner is stated to be a student.

4. Learned State counsel states that taking into consideration the nature of injuries caused to the complainant attracts Section 307 IPC and the petitioner being member of that unlawful assembly, is not entitled to be released on bail. He states that there is possibility that petitioner may interact with two of the accused persons, who are yet to be arrested.

5. I have heard learned counsel for the parties.

6. The co-accused namely Bittu, who is father of the petitioner has already been admitted on bail by this Court in Criminal Misc. No. M- 33416 of 2016 titled "Bittu Singh v. State of Punjab" decided on 29.9.2016. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides bail to a person, who is apparently a child alleged to be in conflict with law, which 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 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 subsection (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home 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.

7. Though proviso to Section 12(1) of the Act provides that a juvenile shall not be 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. But no such material has been brought to the notice of this Court to substantiate the possibility that in case the petitioner, if released on bail, is likely to associate with the known criminals.

8. Without commenting on the merits of the case including juvenility of the petitioner at this stage, but taking into consideration the role attributed by him, the present revision petition is allowed. The judgment dated 17.8.2016 passed by learned Additional Sessions Judge, Amritsar as well as the order dated 26.7.2016 passed by the Principal Magistrate, Juvenile Justice Board, Amritsar, declining the bail to the petitioner, are set aside. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the CJM/Duty Magistrate, Amritsar.