
(2021) 01 P&H CK 0284

In the Punjab And Haryana At Chandigarh

Case No : Criminal Revision No. 1156, 1156, 28121, 1157 Of 2020 (O&M)

Rajesh Kumar

APPELLANT

Vs

State Of Haryana

RESPONDENT

Date of Decision : 21-01-2021

Acts Referred:

Juvenile Justice (Care And Protection Of Children) Act, 2015 — Section 12

Citation : (2021) 01 P&H CK 0284

Hon'ble Judges : Gurvinder Singh Gill, J

Bench : Single Bench

Advocate : Karan Kaushal, Ramesh Kumar Ambavta, Y.S.Rathore

Final Decision : Allowed

Judgement

Gurvinder Singh Gill, J

1. In view of the reasons mentioned in the application, the same is allowed and the matter is preponed from 10.2.2021 and is taken on Board today itself.

1. This order shall dispose of the above mentioned two revision petitions assailing order dated 4.9.2020 vide which an appeal filed by the petitioner(s) challenging order dated 20.8.2020 declining bail, passed by learned Principal Magistrate, Juvenile Justice Board, Karnal, has been dismissed by learned Additional Sessions Judge, Karnal.

2. A few facts necessary to notice for disposal of these petitions are that the FIR was lodged at the instance of Rawal wherein it had been alleged that his father has three brothers and that the youngest is Satyawan who has two sons namely Rohit aged 16 years and Mohit aged 12 years. Mohit was studying in 9th standard. On the day of occurrence, when he went to his

uncle Satyawana's house, he could not find Mohit at home. He

thereafter went looking for Mohit and was informed by Gaurav who is complainant's nephew that three boys i.e. the deceased Mohit and the

present petitioners had come to his shop and one of the petitioners had informed that it was his birthday and they were going to celebrate the same.

The complainant kept on searching for Mohit and in the said process also went to Manoj's house who disclosed that Mohit had drowned in a

drain. When the complainant confronted him more, he further disclosed that he along with Rajesh had strangled Mohit and pushed him down the

drain and had also dumped his clothes in the drain.

3. Learned counsel for the petitioner(s) has argued that it is a case where petitioner-Rajesh was aged 13 years and 1 month and Manoj was aged 14

years and 8 months on the date of occurrence and as such cannot be said to be nursing any such criminal bent of mind so as to kill the deceased.

Learned counsel has further submitted that although in the FIR there is a specific allegation to the effect that accused Manoj had accepted his guilt

and had stated that he and co-accused had strangled the deceased before throwing him in the drain but the post mortem report does not reveal

presence of any ligature mark so as to substantiate the said allegations. It has been submitted that it is in fact a case of accidental drowning which had

been given a colour of a criminal offence. It has further been submitted that the petitioner(s) in any case deserve to be released on bail in terms of

provisions of Section 12 of Juvenile Justice Act.

4. Learned State counsel assisted by counsel for the complainant has submitted that since it is a case where the accused had himself admitted his guilt

and in fact it was pursuant to their disclosure statement that the dead body and clothes were recovered, no case for grant of bail is made out. It has

further been submitted that since in the post mortem report one injury was also noticed on the dead body and a frothy discharge is stated to be coming

from the mouth, it is apparent that it is a case of homicidal death. Learned counsel has further submitted that conduct of the petitioner(s) in not

informing anybody about the drowning of the deceased itself shows the complicity of the petitioner(s) as it is only when petitioner-Manoj was

confronted by the complainant, he disclosed that Mohit had died.

5. Learned State counsel has however, informed that the petitioner(s) as on date

had been behind bars since the last more than 6 months.

6. I have considered rival submissions addressed before this Court.

7. It is not disputed that both the petitioner(s) are of tender age and are not stated to be having any chequered history and are already in custody for the last about 6 months.

8. Having regard to the facts and circumstances of the case, it will be debatable as to whether it is a case of accidental death or is indeed a homicidal

death. In any case since the petitioner(s) are aged less than 16 years and have been behind bars since the last more than 6 months, further detention

of the petitioner(s) particularly in view of the provisions of Section 12 of the Juvenile Justice Act will not serve any useful purpose. Both the petitions,

as such, are accepted. The impugned order dated 4.9.2020 passed by learned Additional Sessions Judge, Karnal and order dated 20.8.2020 passed by

learned Principal Magistrate, Juvenile Justice Board, Karnal are hereby set aside. The petitioners are ordered to be released on bail on their furnishing

bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

9. It is further ordered that parents of the petitioner(s) shall constantly monitor the movements of the petitioner(s) and counsel them so that they do not

indulge in any kind of violence while availing bail.