

Law Today Live Doc. Id. 15088

PUNJAB AND HARYANA HIGH COURT

Before: Sanjay Kumar, J.

CRR-982-2020 (O&M)

Decided on: 03.07.2020

Akashdeep Singh (Minor)

Petitioner

Versus

State of Punjab

Respondent

Present:

Mr. Suresh Singla, Advocate for the petitioner.

Mr. Suveer Sheokand, Additional Advocate General, Punjab.

Juvenile Justice (Care and Protection of Children) Act, 2015 (2 of 2016), Section 12 -- Narcotic Drugs and Psychotropic Substances, Act, 1985 (61 of 1985), Section 22, 37 – NDPS matter – Accused was minor -- Regular bail -- Petitioner was a minor on the date of the alleged offence though have been treated as a major -- Petitioner and the other co-accused were apprehended in possession of 850 tablets of Clovidol-100, however, no specific overt act is attributed to the petitioner -- A juvenile who is accused of a bailable or non-bailable offence would ordinarily be entitled to be released on bail if the Court is convinced that such release would not be likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or defeat the ends of justice – No other case against him under the Act of 1985 -- No evidence of Section 37 of the Act of 1985 being attracted to the case on hand – Furthermore, no basis for the opinion formed by both the Courts below that the release of the petitioner would be likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger -- Continued incarceration of the petitioner is neither required nor desirable – Petitioner shall be released on regular bail.

(Para 1-5)

JUDGMENT

SANJAY KUMAR, J. (ORAL) –

CRM-14913-2020

1. Exemption is ordered.

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2. By way of this revision, the petitioner assails the order dated 17.6.2020 passed by the learned Judicial Magistrate 1st Class, Bathinda, and the appellate order dated 20.6.2020 passed by the learned Additional Sessions Judge, Bathinda, affirming the same. These orders came to be passed in the context of FIR No. 28 dated 10.2.2020 on the file of Police Station Nathana, District Bathinda, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act of 1985').

3. Admittedly, the petitioner was a minor on the date of the alleged

offence though he seems to have been treated as a major by his own reckoning. He is presently housed in the District Jail at Bathinda. The allegation was that the petitioner and the other co-accused were apprehended in possession of 850 tablets of Clovidol-100 (wrongly mentioned as 8500 tablets by the Appellate Court). However, no specific overt act is attributed to the petitioner in relation to the offence.

4. In terms of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, a juvenile who is accused of a bailable or non-bailable offence would ordinarily be entitled to be released on bail if the Court is convinced that such release would not be likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or defeat the ends of justice. Admittedly, no other case has been registered against the petitioner under the Act of 1985. As matters stand, there is no evidence of Section 37 of the Act of 1985 being attracted to the case on hand.

5. Further, there is no basis for the opinion formed by both the Courts below that the release of the petitioner would be likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger. In that view of the matter, the continued incarceration of the petitioner in District Jail, Bathinda, is neither required nor desirable.

6. The revision is accordingly allowed and the orders under challenge are set aside. The petitioner shall be released on regular bail in FIR No. 28 dated 10.2.2020 on the file of Police Station Nathana, District Bathinda, upon his legal guardian furnishing a personal bond for a sum of Rs. 50,000/-, guaranteeing his presence before the Court as and when required. The legal guardian of the petitioner shall also furnish two sureties for a sum of Rs. 50,000/- each to the satisfaction of the Illaqa/Duty Magistrate concerned.

Petition allowed.
