

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

**CRR No. 1585 of 2011 (O&M)
Date of Decision : 30.11.2011**

Lakhbir Singh @ Lakha @ Lambu

...Petitioner

Versus

State of Haryana

...Respondent

.....

CORAM: HON'BLE MR. JUSTICE ALOK SINGH

..-

1. Whether Reporters of local newspapers may be allowed to see judgment?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

Present: Mr. N.S. Shekhawat, Advocate,
for the petitioner.

Mr. Deepak Girotra, AAG, Haryana.

Mr. Vikas Chaudhary, Advocate for
Mr. Kuldeep Tiwari, Advocate,
for the complainant.

Alok Singh, J. (Oral)

This is a revision petition filed under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000, assailing order dated 29.06.2011, passed by the learned Sessions Judge as well as against order dated 15.06.2011, passed by the Principal Magistrate, Juvenile Justice Board, Kurukshetra, whereby bail application filed by accused-revisionist Lakhbir Singh was dismissed.

Brief facts of the present case are that Jaswinder Singh son of Daljit Singh-deceased has suffered a statement before the police to the effect that on 09.03.2011 he was sitting with his father Daljit Singh and was

watching cricket match; meanwhile his father has received a call on his mobile phone. Having received call on his mobile phone, his father went out stating that he would return after 10-15 minutes, however, he did not come back. Complainant tried to contact with his father on his mobile phone, but it was found switched off. On the next day morning, body of his father was found. On the basis of his statement, FIR No.30 dated 10.03.2011 was registered under Section 302 read with Section 201/34 IPC at Police Station Jhansa. During interrogation, police located the call details and apprehended accused Buta Singh. Buta Singh has suffered a confessional statement to the police to the effect that his (Buta Singh's) mother was having illicit relations with deceased Daljit Singh. He (Buta Singh) had stopped Daljit Singh so many times not to have illicit relations with his mother, however, Daljit Singh did not stop. Therefore, he along with present accused has committed murder of Daljit Singh to save the bad name.

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

Learned counsel appearing for the parties have fairly admitted that present accused-revisionist is a juvenile and was studying in 10th standard at the time of alleged murder of Daljit Singh. It is also an admitted fact that he was enlarged on interim bail for the purpose of appearing in Board Examination, which he had successfully passed. It is also an admitted fact that present accused-revisionist is not involved in any other criminal activity. It is also an admitted fact that there is no eye-witness in the present case and present accused was implicated in the present case on the basis of so called confessional statement of the co-accused.

Hon'ble Apex Court in the case of **U.O.I. Vs. Bal Mukund and**

others reported in 2009(2) RCR (Criminal) 574 has held that conviction of co-accused would not be safe on the basis of confessional statement of another co-accused. It is yet to be seen as to whether alleged confessional statement of the co-accused who himself is a juvenile can be read in evidence.

Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 reads as under :-

“12. Bail of juvenile.- (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is 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 but he shall not be so released if there appear reasonable grounds 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.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.”

Bail to the juvenile can only be refused when it appears that there are reasonable grounds for believing that the release is likely to bring him in association of known criminal or such release may expose him to moral, physical or psychological danger or his release would defeat the ends of justice.

Moreover, in the present case, co-accused who is also a juvenile is not a criminal and not involved in any other case, there is no material to say that petitioner after coming out shall join the company of the known criminals. He has passed Board's examination while on interim bail. He has not misused interim bail. Confining a juvenile for long would mean to deprive him from further studies. Confinement would cause mental stress, psychological danger, therefore, refusal of the bail to the present accused would not be justified. Consequently, present petition is allowed. Let revisionist-juvenile be released on bail on furnishing a personal bond of his father to the satisfaction of the Principal Magistrate, Judge Juvenile Justice Board.

November 30, 2011*Anand***(Alok Singh)
Judge**