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(243A)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-474-2024 (O&M)
Date of Decision: 19.04.2024

KXXXXXX

... Petitioner

Versus

UNION TERRITORY OF CHANDIGARH

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Vidushi Kumar, Advocate
for the petitioner.

Mr. J.S. Toor, APP for U.T., Chandigarh.

JASJIT SINGH BEDI, J.

CRM-10606-2024

This is an application filed under Section 482 Cr.P.C. read with Section 5 of the Limitation Act, 1963 for condonation of delay of 20 days in filing the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 20 days is hereby condoned.

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The present revision petition has been filed against the order(s) dated 29.07.2023 passed by the Principal Magistrate Juvenile Justice Board, Chandigarh whereby the petitioner's bail application has been dismissed and the impugned order dated 15.11.2023 passed by the Addl. Sessions Judge (Children's Court) Chandigarh whereby the appeal against the impugned order dated 29.07.2023 has been dismissed.

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2. The FIR in question came to be registered at the instance of Jagdish Bhardwaj son of Sh. Changur and the same reads as under:-

“Jagdish Bhardwaj S/o Lt. Sh. Changur R/o H.No. 141 Vikas Nagar Mauli Jagran, UT Chd. Age 42 years Stated that I have been living at the said address as a tenant along with my family for the last 10 years and I am a permanent resident of Village Darmouva Kauda Police Station Sadat District Ghazipur (UP) and I work in Plot No. 375 Ind. Area PH-1 UT Chd. and my wife Kiran also does PVT work PKL (HR) and I have three sons. My elder son Pankaj works in Pvt in Bombay and two sons live with me. Saurav Bhardwaj aged about 16 years is my second son and studies in Govt. School Vikas Nagar UT Chd. in 10th class. On 23/06/2023, at around 06.30 PM, my wife came home after finishing her duty and I came home after finishing my duty at around 08.30 PM. I gave my son Saurav some money and sent him to buy rice from the grocery store and my son came home with the rice, then my wife sent Saurav to buy an earthen lamp (diya), then my son told me told that Papa ji Prince @Pawwa, Vijay, Sumit, Krishna and there three or four friends are looking to beat me because of an earlier fight so I told my son that nothing will happen I am standing in the front gallery of the house. As my son was going from the home to get things, in the park in front of my house, three-four boys came from behind and three-four boys came from the front and surrounded my son. A boy was wearing a white shirt and white slippers. That boy stabbed my son. When I came down, all these boys ran away from the spot, whose names were Prince @ Pawwa, Vijay, Sumit, Krishna and there other three or four friends. When my son was stabbed, a crowd gathered at the spot, Trilochan Singh who lives in my neighborhood came with his Aactiva, so we made my son sit in the middle and took him to the government hospital

Sec. 32 UT Chd. where the duty doctor after checking my son Saurav declared him dead. My son was stabbed to death by the said boys. I can identify all of them. I request you to take legal action against all the said boys. Statement recorded and heard and it is correct. Sd/- Jagdish.”

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. The alleged occurrence is stated to have been taken place on 23.06.2023 at 08.30 PM whereas the FIR came to be registered on the next evening at 05.04 PM. This delay was fatal to the prosecution case. However, taking the allegations to be correct, the petitioner had not inflicted the fatal injury on the deceased who has otherwise received only one injury with a sharp edged weapon. As the petitioner was a first-time offender, in custody since 24.06.2023 and was of the age of approximately 12 years and student of 7th Class, he was entitled to the concession of bail.

4. A short reply dated 19.04.2024 by way of an affidavit of P Abhinandan, Deputy Superintendent of Police, Supervising Authority of P.S. Mauli Jagran, U.T., Chandigarh has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the record would reveal that the petitioner had committed the offence along with his co-accused. A Danda used by the petitioner was got recovered at his instance. A knife, Gandasi and Dandas etc. used by the co-accused of the petitioner had been got recovered from them. There was every possibility that if granted the concession of bail, he would come into association with known criminals. This was moreso when as per

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the social investigation report the living conditions of the petitioner and his family were poor. They were living in a one room set and he was required to be counselled to quit his bad peer group.

5. I have heard the learned counsel for the parties.

6. The petitioner is a juvenile of the age of approximately 12/13 years and student of a 7th Class. Merely because the petitioner belongs to a weak socio-economic background does not mean that he would come into association with known criminals. On the contrary, as has already been pointed out, he is a student of 7th Class. As he is a first-time offender, in custody since 24.06.2023, his further incarceration is not required.

7. Thus without commenting on the merits of the case, the present revision petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

19.04.2024

JITESH

Whether speaking/reasoned:- Yes/No**Whether reportable:- Yes/No**