

Court No. - 47

Case :- CRIMINAL REVISION No. - 3042 of 2024

Revisionist :- Juvenile Abcs

Opposite Party :- State Of U.P. And 3 Others

Counsel for Revisionist :- Arjun Singh Yadav,Mohd Salman,Nazia Nafees,Ramesh Pundir

Counsel for Opposite Party :- Bipin Kumar,G.A.

Hon'ble Siddharth,J.

Heard learned counsel for the revisionist, learned A.G.A. for the State and Sri Bipin Kumar, learned counsel for opposite party no.4.

The present criminal revision has been filed to quash the order dated 07.05.2024. passed by Juvenile Court/ Special Judge (POCSO Act), Kaushambi, in Juvenile Criminal Appeal No.07 of 2024 and the order dated 29.03.2024 passed by the Juvenile Justice Board, Kaushambi in Case Crime No..487 of 2023, under Sections 376, 504, 506 I.P.C and Section 3/4 POCSO Act and Section 3(2)(v) and 3(1)dha SC/ST Act, Police Station Sarai Aqueel, District Kaushambi.

Learned counsel for the revisionist submits:

(i) admittedly, the revisionist was a juvenile aged about 17 years, 7 months and 18 days on the date of alleged incident; he is in child protection home since 08.12.2023.

(ii) the applicant has been falsely implicated;

(iii) there is no specific or strong objection raised in the DPO report, other than the general and vague observations;

(iv) there is no criminal history of the revisionist;

(v) there is no hope of early conclusion of the trial;

(vi) the revisionist has remained confined in the child observation home for an unduly long period of time;

(vii) none of the grounds contemplated under section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the Act) are available, to deny the bail to the applicant.

(ix) therefore, the impugned orders have been assailed as erroneous and contrary to law.

Learned A.G.A. for the State vehemently opposed the present criminal

revision. It is submitted, the incident reported is true and it is wrong to say that the allegations made against the applicant are false, and/are motivated. Also, reliance has been placed on the findings recorded in the bail rejection orders to submit that the instant revision may be dismissed.

It is not in dispute that the applicant is a juvenile and is entitled to the benefits of the provisions of the Act. Under Section 12 of the Act, the prayer for bail of a juvenile may be rejected 'if there appear reasonable grounds for believing that the release of the juvenile 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'.

The court has to see whether the opinion of the learned appellate Court as well as Juvenile Justice Board recorded in the impugned judgment and orders are in consonance with the provision of the Act. Section 12 of the Act lays down three contingencies in which bail may be refused to a juvenile offender. These are:-

- (i) if the release is likely to bring him into association with any known criminal, or
- (ii) expose him to moral, physical or psychological danger, or
- (iii) that his release would defeat the ends of justice?

Gravity of the offence has not been mentioned as a ground to reject the bail. It is not a relevant factor while considering to grant bail to the juvenile. It has been so held by this Court in *Shiv Kumar alias Sadhu Vs. State of U.P. 2010 (68) ACC 616(LB)*. It has been consistently followed in subsequent decisions of this court.

Thus, it remains largely undisputed that the revisionist - was a juvenile on the date of occurrence; does not appear to be prone to criminal proclivity or criminal psychology, in light of the observations of the D.P.O; does not have a criminal history; has been in confinement for an unduly long period of time, in as much as the trial has not concluded within time frame contemplated by the Act. Even otherwise, there does not appear to exist any factor or circumstance mentioned in section 12 of the Act as may disentitle the applicant to grant of bail, at this stage. The father of the revisionist undertakes to address the statutory concerns expressed in section 12 of the Act, as to the safety and well being of the applicant, upon his release.

In view of the above, it appears that the findings recorded by the learned Court below are in conflict with the settled principle in law, for the purpose of grant of bail and are erroneous and contrary to the law laid down by this court. Consequently, those orders cannot be sustained. The impugned orders are hereby **set aside**.

In view of the observations made above, the present criminal revision is allowed. Let the revisionist Juvenile ABCS involved in the aforesaid case crime be released on bail, on his furnishing personal bond of Rs.20,000/- with two sureties each of like amount, to the satisfaction of the court concerned with the following conditions:

- (i) The revisionist shall not tamper with the evidence or threaten the witnesses;
- (ii) The revisionist through guardian shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law;
- (iii) The revisionist through guardian shall remain present before the trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial Court may proceed against him under Section 229-A of the Indian Penal Code/ 269 B.N.S.S.

Registrar (compliance) is directed to communicate the order to the Child Observation Home concerned within a week.

Order Date :- 31.7.2025
SS