



2025:AHC:152462

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4218 of 2025

Bal Apchari As

.....Revisionist(s)

Versus

State Of U.P. And 3 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Sandeep Kumar Yadav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 47

HON'BLE SIDDHARTH, J.

As per office report dated 28.08.2025, notice has been served on opposite party no. 2 but no one has put in appearance.

Compliance affidavit filed by learned A.G.A is taken on record.

Heard counsel for the revisionist and learned A.G.A for the State.

The present criminal revision has been filed to quash the order dated 19.05.2025 passed by Additional Sessions Judge/ Special Judge POCSO Act, Kushinagar Padrauna in Juvenile Criminal Appeal No. 21/2025 (Bal Apchari "AS" Vs. State of U.P. and another) in Criminal Case No. 21 of 2025, as Case Crime no. 71 of 2025 under section 351 (2) B.N.S. and section 5/6 POCSO Act, Police Station Nebuwa Naurangiya, District Kushinagar as well as order dated 04.04.2025 passed by Juvenile Justice Board Kushinagar Place Padrauna in application no. 65 of 2025 as case crime no. 71 of 2025 under section 5/6 POCSO Act, Police Station Nebuwa Naurangiya, District Kushinagar.

Learned counsel for the revisionist submits:

(i) admittedly, the revisionist was a juvenile on the date of alleged incident being 15 years of age; he is in child protection home since 22.02.2025.

(ii) the revisionist has been falsely implicated;

(iii) there is no specific or strong objection raised in the D.P.O 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 revisionist.
- (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 revisionist are false, and/are motivated. Also, reliance has been placed on the findings recorded in the revisionist rejection orders to submit that the instant revision may be dismissed.

It is not in dispute that the revisionist 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 revisionist 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 revisionist, 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, Bal Apchari "AS" son of Riyajuddin, 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/ Section 269 of Bhartiya Nyaya Sanhita.

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

August 29, 2025
Rohit

(Siddharth,J.)