Court No. - 80

Case :- CRIMINAL REVISION No. - 5416 of 2022

Revisionist :- Juvenile X
Opposite Party :- State of U.P. and Another
Counsel for Revisionist :- Sandeep Tripathi,Chandra Bhushan Prasad
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the revisionist as well as learned A.G.A. for the State and perused the record.

The present criminal revision has been preferred by the revisionist through his father with a prayer to allow this revision and set aside the judgment and order dated 01.11.2021 passed by learned Additional District & Sessions Judge/ Special Judge (POCSO Act), Muzaffarnagar in Criminal Appeal No. 37 of 2021 as well as order dated 23.07.2021 passed by Juvenile Justice Board, Muzaffarnagar. Further prayed to release the revisionist on bail in Case Crime No. 228 of 2017 under Sections 364, 302, 201 I.P.C. and 3(2)(5) S.C./S.T. Act, Police Station Mansoorpur, District Muzaffarnagar.

It is submitted by learned counsel for the revisionist that in this case the delinquent was aged about 17 years and 7 months at the time of alleged incident. It is further submitted that the revisionist was juvenile at the time of alleged incident and trial is pending before the learned children's court. It is also submitted that as per status report filed by learned A.G.A. in compliance of order of this Court trial is not likely to be concluded in near future. It is further submitted that co-accused Kaju @ Rajkumar who was major and was convicted by the session's court has already been granted bail in criminal appeal No. 623 of 2022 by order dated 29.11.2022 by Division Bench of this Court. The role of the present revisionist cannot be said to be different from that of co-accused. It is further submitted that there is nothing adverse against the interest of the delinquent in the report submitted by D.P.O.

It is further submitted that the provisions as contained u/s 12 of the Juvenile Justice Act had not been considered by the Juvenile Justice Board even the report submitted by Probation Officer was also not considered. The appellate court has also not considered all these facts but rejected the appeal without applying its judicial mind and considering the law as contained u/s 12 of the aforesaid Act. He is in Child Care Home since 14.04.2017 i.e. more than six years and his psychology is being affected adversely, therefore, requested to set aside orders passed by the J.J. Board as well as appellate court and allow the criminal revision.

Learned A.G.A. opposed the prayer as aforesaid.

Considering the facts and circumstances of the case, submission made by learned counsel for the revisionist as well as learned A.G.A. for the State, the time period delinquent remained in Child Care Home, none possibility of conclusion of trial in near future and the bail granted to co-accused in aforesaid criminal appeal, perusal of record, the provisions as contained u/s 12 of Juvenile Justice Act, the report submitted by the Probation Officer, it appears that Juvenile Justice Board as well as the appellate court had not considered the relevant provisions and the material on record in well manner but passed the orders without applying their judicial mind. In this way, there appears ground in this revision and the orders passed by the Juvenile Justice Board as well as learned appellate court are liable to be set aside.

Accordingly, the orders passed by Juvenile Justice Board dated 23.07.2021 and the appellate court dated 01.11.2021 are, hereby, set aside and present criminal revision is hereby, ***allowed***.

It is directed that delinquent/applicant be released on bail on executing person bond by the revisionist (father of the delinquent) and two sureties each in the like amount to the satisfaction of the Juvenile Justice Board concerned on following conditions :-

(i) The revisionist/ father will furnish an undertaking that upon release on bail the revisionist will not be permitted to go into contact or association with any known criminal or allowed to be exposed to any moral, physical, or psychological danger and further that the father will ensure that the juvenile will not repeat the offence.

(ii) The revisionist/ father will further furnish an undertaking to the effect that the juvenile will pursue his study at the appropriate level which he would be encouraged to do besides other constructive activities and not be allowed to waste his time in unproductive and excessive recreational pursuits.

(iii) Juvenile and the revisionist/ father will report to the Probation Officer on the first Monday of every calendar month.

(iv) The Probation Officer will keep a strict vigil on the activities of the juvenile and regularly draw up his social investigation report that would be submitted to the Juvenile Justice Board concerned on such a periodical basis as the Juvenile Justice Board may determine.

Order Date :- 21.11.2023
Suraj Srivastav

Digitally signed by :-
SURAJ SRIVASTAVA
High Court of Judicature at Allahabad