

Court No. - 53

Case :- CRIMINAL REVISION No. - 4381 of 2023

Revisionist :- X-Juvenile

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Sandeep Kumar Chaturvedi, Surendra Mohan Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Syed Aftab Husain Rizvi,J.

1. This criminal revision is connected with Criminal Revision No. 4432 of 2023 in which notice has been served on the informant. However, none is present on behalf of the informant.
2. This criminal revision has been filed against the order dated 06.07.2023 passed by Additional Sessions Judge/Children Court, Siddharth Nagar in Criminal Appeal No. 28 of 2023, Case Crime No. 42 of 2023, under Sections 366, 328, 342, 376D, 406, 323 and 370 I.P.C., P.S. Jogiya Udaipur, District Siddharth Nagar.
3. By the impugned order, learned appellate court has dismissed the appeal filed against the order dated 23.06.2023 passed by Juvenile Justice Board, Siddharth Nagar in Misc. Case No. 30 of 2023 [State Vs. X (Juvenile)], rejecting Bail Application of the revisionist (child in conflict with law).
4. Heard learned counsel for the revisionist and learned A.G.A. for the State. No one has appeared on behalf of opposite party no. 2 despite service of notice in connected revision.
5. Learned counsel for the revisionist contended that as per allegations of the F.I.R., victim is aged about 19 years so she is major. She voluntarily joined the company of the accused persons. No offence is made out. It is further contended that co-accused, Rahul, named in the F.I.R. has been enlarged on bail by co-ordinate Bench of this Court vide order dated 30.06.2023. It is further contended that the revisionist has been declared Juvenile, there is nothing adverse in the report of District Probation Officer which disentitle the revisionist for grant of bail. Learned Juvenile Justice Board as well as learned appellate court have failed to apply the provisions of law applicable while rejecting the bail application of the revisionist. It is further contended that gravity of the allegations of the F.I.R. is not material for disposal of the bail application of the juvenile.
6. Learned A.G.A. opposed the prayer for the bail but not disputed the aforesaid submissions.
7. It is undisputed that the revisionist has been declared Juvenile. Relevant provision dealing with the bail application of the juvenile, i.e. Section 12 of the

Juvenile Justice (Care and Protection of the Children) Act, 2015 (hereinafter referred to as "J.J. Act, 2015") is quoted below:

"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 or placed under the supervision of a Probation Officer or under the care of any fit institution of fit person 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 be 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."

8. From the above provision, it is clear that bail to a juvenile can be refused on specific ground mentioned in the aforesaid provision. There is no material on record to fulfil the conditions as mentioned in Section 12 of J.J. Act, 2015.

9. In view of the above, it is clear that the orders passed by Juvenile Justice Board and the appellate court are not sustainable. The revision is, accordingly, allowed. The impugned order dated 06.07.2023 passed by Additional Sessions Judge/Children Court, Siddharth Nagar in Criminal Appeal No. 28 of 2023, Case Crime No. 42 of 2023, under Sections 366, 328, 342, 376D, 406, 323 and 370 I.P.C., P.S. Jogiya Udaipur, District Siddharth Nagar and the order dated 23.06.2023 passed Juvenile Justice Board, Siddharth Nagar in Misc. Case No. 30 of 2023 [State Vs. X (Juvenile)], are hereby set aside. The bail application of the revisionist is allowed.

10. Let the revisionist, who is in protective custody since 19.05.2023, be released on bail via assurance and surety given by his natural guardian/father, in Misc. Case No. 30 of 2023 arising out of Case Crime No. 42 of 2023, under Sections 366, 328, 342, 376D, 406, 323 and 370 I.P.C., P.S. Jogiya Udaipur, District Siddharth Nagar,

after furnishing a personal bond of his father with two sureties of his relatives each in the like amount to the satisfaction of Juvenile Justice Board, Siddharth Nagar, subject to the following conditions:

- (i) Natural guardian/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) Natural guardian/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 natural guardian/father will report to the Probation Officer on the fourth Monday of every calendar month commencing with the fourth Monday of November 2023, and if during any calendar month the fourth Monday falls on a holiday, then on the following working day.
- (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, Siddharth Nagar on such a periodical basis as the Juvenile Justice Board may determine.

Order Date :- 26.10.2023

P.Sri.