

Court No. - 11

Case :- CRIMINAL REVISION No. - 307 of 2022

Revisionist :- Ankit Kumar (Minor) Thru. His Father Jalipa Pasi

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko.
And 3 Others

Counsel for Revisionist :- Ajeet Kumar Singh, Girish Kumar Pandey, Hari Narayan Singh, Sher Bahadur Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel for the revisionist as well as the learned AGA and perused the record.
2. The present criminal revision has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 against the order dated 29.3.2022 passed by the Special Judge, POCSO Act/Additional Sessions Judge, Court No.15, Hardoi in Criminal Appeal No.14 of 2022 preferred by the accused-revisionist against the order dated 15.3.2022 passed by the Juvenile Justice Board rejecting the bail application of the accused-revisionist in Case Crime No.14 of 2022, under Section 376 IPC and Section 3/4 POCSO Act, Police Station Hariyawan, District Hardoi.
3. The revisionist is an accused in FIR No.14 of 2022, registered under Section 376 IPC and Section 3/4 POCSO Act, Police Station Hariyawan, District Hardoi. An application for bail was moved by the revisionist before the Juvenile Justice Board. However, the Juvenile Justice Board considering the gravity of offence and the report of the District Probationary Officer, rejected the said bail application vide order dated 15.3.2022. The said order dated 15.3.2022 was challenged in appeal before the learned Special Judge, POCSO Act, which too has been rejected vide order dated 29.3.2022 considering the

report of the District Probationary Officer that family members of the juvenile accused do not have control over him.

4. The prosecutrix was aged around eleven and a half years, whereas the accused-revisionist was aged around 16 years at the time of incident.

5. Father of the prosecutrix and the prosecutrix have been examined in the court and they have not supported the prosecution case in all respects. The accused-revisionist has been in jail since 14.1.2022.

6. Considering the statements of the prosecutrix and her father and also taking into consideration that long confinement of the accused being juvenile in the protection home would not be beneficial to his over all welfare and psyche, it would be appropriate to enlarge the accused-revisionist on bail.

7. Let revisionist **Ankit Kumar** be released on bail in the above case crime number on his furnishing a personal bond and two sureties of the like amount on his behalf to the satisfaction of Court concerned with the following conditions:-

(i) The revisionist shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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.

(ii) The revisionist 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.

(iii) In case, the revisionist misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the revisionist fails to appear

before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The revisionist shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The revisionist and his family members should not try to influence or tamper with the evidence or threaten the family members of the prosecutrix in any manner.

8. In view of the order of release of the accused-revisionist on bail, the revision is allowed and the order dated 29.3.2022 passed by the Special Judge, POCSO Act/Additional Sessions Judge, Court No.15, Hardoi in Criminal Appeal No.14 of 2022 and the order dated 15.3.2022 passed by the Juvenile Justice Board, are hereby set aside.

Order Date :- 19.6.2023

Rao/-