

Court No. - 12

Case :- CRIMINAL REVISION No. - 319 of 2023

Revisionist :- Nitesh Kumar Mishra

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko.
And Another

Counsel for Revisionist :- Ashutosh Srivastava, Akhilesh
Kumar Mishra, Diwakar Pratap Pandey, Vijay Kumar

Counsel for Opposite Party :- G.A., Bharat Kumar Dixit

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the revisionist, Ms. Sakshi Pandey, Advocate holding brief of Mr. Bharat Kumar Dixit, learned counsel for private respondent as well as learned A.G.A. for the State and perused the State.

2. The present revision has been filed for quashing the impugned order & judgement dated 16.03.2022 in Crl. Appeal No.10 of 2023 passed by learned Additional District & Sessions Judge (P.O.C.S.O. Act)-II, Raebareli arising out of Case Crime No.296 of 2022 U/s 304-B, 498-A, I.P.C., Section 3/4 of D.P. Act, Police Station- Salon, District Raebareli and order & judgement dated 10.02.2023 passed by Juvenile Justice Board, Raebareli.

3. Learned counsel for the revisionist submits that revisionist has been falsely implicated in the present case. He further submits that revisionist entered into marriage with deceased, as deceased was in conversation with several other persons so she was warned about not to do such act, as a result, she felt offended and committed suicide. He further submits that F.I.R. of the case in question was lodged on the basis of incorrect facts, thereafter, charge-sheet was filed by Investigating Officer. It is further submitted that revisionist is in jail since 26.06.2022 and learned Juvenile Justice Board failed to consider the bail application of revisionist as well as also ignored the D.P.O. report, thereafter, appeal was filed, and the same was rejected in the most mechanical manner. It is further submitted that in near future, there is no possibility of conclusion of trial, hence, applicant is entitled for bail and the aforementioned orders passed by Juvenile Justice Board and appellate court are liable to be set aside.

4. Learned A.G.A. opposes the prayer of applicant but he does not dispute over the above submissions.

5. In view of the above, the present revision is **allowed** and the impugned order & judgement dated 16.03.2022 in Crl. Appeal No.10 of 2023 passed by learned Additional District & Sessions Judge (P.O.C.S.O. Act)-II, Raebareli arising out of Case Crime No.296 of 2022 U/s 304-B, 498-A, I.P.C., Section 3/4 of D.P. Act, Police Station- Salon, District Raebareli and order & judgement dated 10.02.2023 passed by Juvenile Justice Board, Raebareli are hereby **set aside**.

6. Let revisionist, namely, **Nitesh Kumar Mishra**, be released on bail in Case Crime No.296 of 2022 U/s 304-B, 498-A, I.P.C., Section 3/4 of D.P. Act, Police Station- Salon, District Raebareli on furnishing of a personal bond alongwith an undertaking on behalf of revisionist by his legal guardian to the effect that he will not permit the revisionist to come in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice and provide no occasion to the revisionist whereby his release on bail would defeat the ends of justice, by his legal guardian and two sureties each in the like amount to the satisfaction of the Court concerned subject to following conditions:-

(1) Revisionist will not try to influence the witnesses or tamper with the evidence of the case or otherwise misuse the liberty of bail.

(2) Revisionist will fully cooperate in expeditious disposal of the case and shall not seek any adjournment on the dates fixed for evidence when witnesses are present in the Court.

(3) Revisionist shall remain present, in person, before the Board on the dates fixed for (a) opening of the case; (b) framing of charge; and (c) recording of statement under Section 313 Cr.P.C. If in the opinion of the Board that absence of the revisionist is deliberate or without sufficient cause, then it shall be open for the Board to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

7. Any violation of above conditions will be treated misuse of bail and Board will be at liberty to pass appropriate orders in the matter regarding cancellation of bail.

Order Date :- 19.10.2023

Arpan