

Court No. - 29

Case :- CRIMINAL REVISION No. - 453 of 2022

Revisionist :- Juvenile Delinquent 'A'

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Deptt. Lko. And Another

Counsel for Revisionist :- Chandra Kishore, Manoj Kumar Gupta, Pravin Singh, Rajesh Kumar Shukla, Vivek Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur), J.

Heard learned counsel for the revisionist, learned A.G.A. and perused the record.

This revision has been filed against the order dated 07.04.2022 passed by the Juvenile Justice Board, Raebareli rejecting the bail application of the revisionist and order dated 27.04.2022 passed by the Additional Session Judge (POCSO Act), Second Raebareli in Criminal Appeal No.12/2022 (Appellant/ Juvenile Delinquent "X" Through Natural Father/ Guardian Vs. State of U.P.), whereby the appeal against the order dated 07.04.2022 was rejected and the order dated 07.04.2022 was confirmed.

It is argued by the learned counsel for the revisionist that the revisionist was 16 years of age, thus, a juvenile on the date of the incident. As per the doctor's report, no mark of struggle or any injury was found on the person/ private part of the victim. As per the statement of the victim herself, she came back on the next day of the incident. In fact, the present case is the counter blast of the case being Case Crime No.57 of 2014 filed by the father of the revisionist against Vinod, the cousin of the alleged victim under Section 354 of IPC. In this case, vide judgment and order dated 08.09.2022 Vinod was convicted by the trial court, hence, the prayer is made accordingly.

It is argued by the learned A.G.A. that as per record, the age of the victim was 15 years on the date of incident. She was taken by the applicant from her home and the offence of rape was committed on her. As per report of D.P.O. also, there was lack of discipline and lack of education on the part of the juvenile.

From the perusal of the statements of the first informant and the victim under Section 161 of Cr.P.C., statement of the victim under Section 164 of Cr.P.C. and the statement of the doctor under Section 161 Cr.P.C., the victim is said to have taken from

home by the present revisionist. Though, in her statement under Section 164 of Cr.P.C. the victim has stated that she came back after the incident on 15.01.2022, while as per the record she is shown to have come back on 19.01.2022. No mark of injury/ mark of struggle is found on the private part/ person of the victim. In her statement under Section 164 Cr.P.C. she has stated that the wrong done with her means that she was disrobed by the revisionist. At present the revisionist is said to be in jail. He is in custody since 18.2.2022. Admittedly, there is no criminal history to the credit of the revisionist. As per DPO report also, lack of discipline and lack of education is found on the part of the revisionist. The revisionist is said to be languishing in jail from 18.02.2022.

As per Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, bail is the rule and the rejection of bail is an exception. As per this section the juvenile shall not be granted bail if there appears a reasonable ground for believing that the release would likely to bring the applicant 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.

In the report of the D.P.O., it has not been mentioned that the release of the juvenile would bring him into the association with any known criminal or expose him to moral, physical or psychological danger, or that his release would defeat the ends of justice.

In view of the above, especially, in view of the period of incarceration, the revision is **allowed**. The order dated 07.04.2022 passed by the Juvenile Justice Board, Raebareli and order dated 27.04.2022 passed by the Additional Session Judge (POCSO) Act, Second Raebareli are hereby set aside.

Let the revisionist, **Juvenile Delinquents (A) (Minor) son of (B) through his uncle (Y)** resident of village- Maulvi Khurd, P.S. Jayas, District Amethi be released on bail in Case Crime No. 07 of 2022, under Sections 363, 366, 376, 506 I.P.C. and 3/4 of POCSO Act, P.S. Jayas, District Amethi, upon his guardian furnishing a personal bond with two solvent sureties of his relatives, each in the like amount to the satisfaction of the Juvenile Justice Board, Raebareli subject to the following conditions:-

(i) the natural guardian will furnish an undertaking that upon release on bail the juvenile will not be permitted to come into contact or association with any known criminal or allowed to be exposed to any moral, physical or psychological danger and

further that the guardian will ensure that the juvenile will not indulge in any criminal activity;

(ii) natural guardian 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.

(iii) juvenile accompanied by his natural guardian, will report to the Probation Officer on the first working day of every calendar month commencing with the month of January, 2024. The D.P.O. shall maintain a diary recording their attendance.

(iv) The District Probation Officer will keep 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, Raebareli.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court/J.J.Board shall be absolutely free to arrive at its independent conclusions on the basis of evidence led, uninfluenced by any finding or observation whatsoever in this order.

Order Date :- 6.12.2023
Radhika