

Court No. - 29

Case :- CRIMINAL REVISION No. - 610 of 2022

Revisionist :- Shubham (Juvenile) Thru. Father Sipahi Lal

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

Counsel for Revisionist :- Arjun Singh Kalhans,Badri Prasad Singh

Counsel for Opposite Party :- G.A.

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

1. This Criminal revision has been filed against the order dated 12.05.2022 whereby the Appeal No. 34 of 2022 against the order of Juvenile Justice Board dated 11.04.2022 was dismissed and impugned order dated 11.04.2022 was confirmed.

2. The order dated 11.04.2022 is the order of Juvenile Justice Board whereby the bail application of the present revisionist was rejected.

3. It is argued by learned counsel for revisionist that at the time of incident, the revisionist was under 16 years of age. As per FIR, there is allegation that the present revisionist made an attempt to commit rape on the deceased. When he did not succeed in his work, he strangled her to death and hanged her through the fan. The revisionist is said to have harassed the deceased. The witnesses are said to see the revisionist coming to the house of the first informant. There is nothing on record to show that because of the unsuccessful attempt of the rape on the deceased, the revisionist strangled her to death. As per postmortem report also, the cause of death was found to be asphyxia as a result of hanging. In the statement of the younger sister of the deceased also nothing incriminating has come. As per DPO report also, there is nothing which could be against the

bail of the revisionist. Hence the prayer for bail is made.

4. Learned A.G.A. has opposed the prayer and submitted that FIR was lodged under Section 302 IPC but later on charge sheet was filed under Section 305 IPC i.e. abetment of suicide of a child. In the FIR and in the statement of the first informant, it has come that it was the revisionist who abetted the suicide of the deceased.

5. I have gone through the FIR, it is the allegation therein that on the date of incident i.e., 30.05.2021, the deceased aged about 14 years and her younger sister Riya aged about 12 years were alone in their home. The revisionist came, made an attempt to commit rape on the deceased and being unsuccessful, strangled her to death. From the postmortem report, the cause of death is found to be asphyxia as a result of hanging. No injury or no mark of struggle is found on the person of the deceased.

6. In the statement of Riya, who is said to be at home along with deceased at the time of incident, she has stated that in the night, she along with her (deceased) sister was sleeping on the roof. When in the morning she came down, she found her sister hanging through the fan. Though it has come in her statement that during day hours, the revisionist had come to their house and was talking with her sister. Her sister was asking him to go and come when her parents come back. After that Riya, younger sister of the deceased, is said to have gone out for playing. The incident took place in the night. In the statement of Riya, it has not come that she had seen any incident with her own eyes. She has not supported the abetment of suicide by the revisionist.

7. In the report of DPO also, it has not been mentioned that if the revisionist is released on bail, his release would 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. The Juvenile Justice Board has misread the report of DPO. So far as the judgment of the appellate court is concerned, the appellate court also on the basis of DPO report found that if the revisionist is released on bail his release would 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. But in the opinion of the Court in the report of the DPO appended at page 54 of the paper book, there is nothing to prove that the release of the revisionist would defeat the ends of justice or if the revisionist is released, it would bring him into an association with any known criminal or expose the revisionist to moral, physical or psychological danger.

8. In the opinion of the Court, the revision deserves to be allowed. The revision is allowed. The order dated 12.05.2022 passed by the trial appellate court is hereby set aside. The order dated 11.04.2022 passed by the Juvenile Justice Board is also set aside.

9. Let the revisionist, Juvenile Delinquent 'X' son of 'Y' through his father resident of village- Paramsukh Kheda, Police Chowki Poni Road, Police Station Gangaghat, District Unnao be released on bail in Case Crime No. 227 of 2021, under Section 305 I.P.C. P.S. Gangaghat, District Unnao, 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, Unnao 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, Unnao.

10. 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 :- 7.12.2023

Virendra