

Court No. - 12

Case :- CRIMINAL REVISION No. - 659 of 2023

Revisionist :- Juvenile 'X' Thru. His Mother Dharma Devi

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

Counsel for Revisionist :- Sheeran Mohiuddin Alavi, Harsh Vardhan Kediya, Nikhil Pathak, Wali Nawaz Khan

Counsel for Opposite Party :- G.A., Kaushal Tiwari

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the revisionist, learned A.G.A. for the State and perused the record.
2. As per office report dated 22.06.2023, notice has been personally served upon the opposite party no.2, despite above, no one has appeared on her behalf, therefore, the matter is being decided.
3. This Criminal Revision has been filed for allowing the same; for quashing the impugned order dated 20.05.2023 passed by Additional Sessions Judge/Special Judge, POCSO Act, Lucknow in Criminal Appeal No.29/2023 (Nimesh Verma Vs. State of U.P. and Ors.) and order dated 27.01.2023 passed by the Juvenile Justice Board, Mohaan Road, Lucknow in Juvenile Case No.9/2023 arising out of Case Crime No.519 of 2022 U/s 376D, 342, 504, 506 I.P.C. & 67A of I.T. Act, Police Station-Gosainganj, District- Lucknow South and to enlarge the accused-revisionist on bail in aforesaid Case.
4. Learned counsel for the revisionist has contended that the revisionist is falsely implicated in the present case as during the course of investigation, statement of victim was recorded, and thereafter, charge sheet was filed. He further submitted that as the revisionist was declared juvenile, therefore, application for bail was submitted before the Juvenile Justice Board but without considering the D.P.O report as well as provisions of Section 112 of Juvenile Justice Act, said application was rejected. He further submitted that the said order was challenged before the Appellate Authority but appeal of revisionist was also rejected. He further submitted that in the

case of Co-accused, namely, Shivam Verma in S.T. No.240 of 2023 (State Vs. Shivam Verma), victim has already been examined before the trial court and in her cross-examination, she has not supported the prosecution version and rest of the witnesses have also denied the prosecution story. He further submitted that the revisionist is in jail since 10.11.2022 and there is no possibility of conclusion of trial in near future which is pending before the Juvenile Justice Board, therefore, impugned order is liable to be set aside and revision is liable to be allowed.

5. Learned A.G.A. has opposed the above contentions but conceded that revisionist is in jail since 10.11.2022.

6. In view of the above, the present revision is **allowed** and order dated 20.05.2023 passed by Additional Sessions Judge/Special Judge, POCSO Act, Lucknow in Criminal Appeal No.29/2023 (Nimesh Verma Vs. State of U.P. and Ors.) and order dated 27.01.2023 passed by the Juvenile Justice Board, Mohaan Road, Lucknow in Juvenile Case No.9/2023 arising out of Case Crime No.519 of 2022 U/s 376D, 342, 504, 506 I.P.C. & 67A of I.T. Act, Police Station- Gosainganj, District- Lucknow South are hereby **set aside**.

7. Let revisionist, namely, **Juvenile 'X' Thru. His Mother Dharma Devi**, be released on bail in Case Crime No.519 of 2022 U/s 376D, 342, 504, 506 I.P.C. & 67A of I.T. Act, Police Station- Gosainganj, District- Lucknow on furnishing of a personal bond alongwith an undertaking on behalf of revisionist by his legal guardian/grand father 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/grand father 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.

8. 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 :- 11.10.2023

V. Sinha