

**Court No. - 71**

**Case :-** CRIMINAL REVISION No. - 2987 of 2024

**Revisionist :-** Juvenile X

**Opposite Party :-** State Of U.P. And 3 Others

**Counsel for Revisionist :-** Shikher Trivedi

**Counsel for Opposite Party :-** G.A.,Shailendra Singh

**Hon'ble Mayank Kumar Jain,J.**

1. Heard learned counsel for the revisionist, learned AGA for the State, learned counsel for the informant and perused the material available on record.

2. This revision has been filed by the revisionist against the impugned judgment and order dated 06.05.2024 passed by the Special Judge (POCSO Act), Jhansi in Criminal Appeal No.24 of 2024 (Juvenile 'X' vs. State of UP) and the judgment and order dated 16.03.2024 passed by the Juvenile Justice Board, Jhansi arising out of Case Crime No.12 of 2024, under Section 342, 376 of IPC and Section 3/4 of POCSO Act, Police Station Poonch, District Jhansi by which, bail application of the revisionist filed u/s 12 of the Juvenile Justice Act has been rejected.

3. There is allegation against the revisionist in the FIR that on 29.12.2023 at around 4.00 pm when victim was waiting for a bus at a bus stand the revisionist along with other person came there and asked to accompany with him. The revisionist had taken the victim to a house. He offered patties and water to her, thereafter, when she lost her senses revisionist committed rape with her. Besides this, revisionist made video of the incident. He extended threat to victim that he would viral the video if she would inform someone about the incident. Thereafter, revisionist made her obscene video viral.

4. It is submitted by learned counsel for the revisionist that the revisionist is innocent and has been falsely implicated in the present case. The revisionist is a declared juvenile. The first information report of the incident has been lodged after delay of 16 days. There is no explanation of such delay. There is no evidence on record which can demonstrate that revisionist made her video viral. It is also submitted that during her statement under Section 161 Cr.P.C. the victim did not make any allegation about

committing rape with her by the revisionist. Learned Juvenile Justice Board as well as learned Sessions Judge did not appreciate the material available on record in correct perspective. It is further submitted that a perusal of the report of the District Probation Officer reflects that no conclusive material is available on record, which dissuades the Court to release him on bail despite being juvenile. It is also submitted that Section 12 of the Juvenile Justice Board Act, 2015 clearly provides that bail to juvenile is a rule and rejection is an exception. The report of DPO is also not against the revisionist.

5. It has been argued that in the present case, there is no material in the report of District Probation Officer that if the revisionist is released on bail, he may expose to moral and psychological danger to the society.

6. Per contra, learned AGA assisted by learned counsel for the informant vehemently opposed the bail application of the revisionist and submitted that the informant was residing in Gujrat, when he received the information about the incident he came and lodged the FIR. Specific role has been assigned to revisionist. The victim during her statement under Section 161 and 164 Cr.P.C. she consistently supported the version of the FIR. She had stated that it was the revisionist who had shown obscene video to victim herself. The said video was given to Investigating Officer in a pendrive which is a part of case diary. The revisionist called the victim from the bus stand and had taken her with him. He offered 'patties' and water, after consuming it she lost her senses. It is also submitted that the revisionist was actively involved in the incident and the nature of the offence is grievous which is against the welfare of the society. Revisionist is not entitled to be released on bail.

7. In support of his submission, learned counsel placed reliance upon the judgment of a coordinate Bench of this Court in **Mr X (Minor) vs. State of UP & Another, Criminal Revision No.1036 of 2022** and referred to paragraphs 7 and 8 of the judgment, which read thus:

*"7. ... .. The law does not say that once a person is found a juvenile, he should be released on bail notwithstanding other facts and circumstances of the matter. It may be noted that the bail can also be denied if juvenile's release, in the opinion of the Court, would defeat the ends of justice. The phrase ends of justice is undoubtedly a meaningful phrase bringing within its sweep many factors including the nature of the crime and the merits of the matter, though ordinarily, as has been held in number of cases, the merits of the case or the nature of the accusations are not to be considered. At the same*

time, there may be other facts and circumstances which cannot simply be passed over by the court concerned. As far as the nature of the offence is concerned, the Juvenile Justice Act itself differentiates between offences falling into three categories, i.e., petty, serious and heinous offences. If the Juvenile Justice Act, 2015 is studied, it becomes quite clear that the cases falling in different categories on the basis of classification into petty, serious and heinous have been dealt with differently. It can safely be remarked that the scheme of the Act takes into consideration the nature of the offence as well. The need for dealing the matters of heinous offences in a more sensitive manner have been brought into focus by the courts of law, time and again, through various judgements. Infact, the courts as well as the legislature have always been sensitive to this aspect of the matter.

7. Whenever, a Court of law decides to exercise his powers under the provisions of Juvenile Justice Act, 2015, the general principles as enumerated in Section- 3 of the Act have to be kept in mind as guiding factor. On one hand, all decisions regarding the child should be based on primary consideration of best interest of the child, on the other hand, the demands of justice of the other side cannot be simply shrugged off. The concern of the victim's family and the larger interest of the society cannot be dealt with in a contemptuous manner. In succession to aforesaid observations, the policy of the act must be brought into focus. Very importantly it may be noted that the scheme of the Act has a twin approach, i.e., reformatory as well as retributive to certain extent. When dealing with bail grant or refusal thereof, the ends of justice may compel the Court to strike a balance between competing and often conflicting demands of justice of both the sides, i.e., the accused and the victim. When viewing the case from this angle, the nature of the crime, the methodology adopted, the manner of commission and the evidence available may assume ample significance. Moreover, the aim and object of this act, is to achieve not only the welfare and betterment of a juvenile by extending to him services of reformatory nature, so that he can be brought back to main stream of society as a person of healthy mind, but also to address the concerns of society at large at this stage. This aim cannot be achieved unless a holistic view of the matter is taken. In my opinion, to give meaning to the phrase 'ends of justice', the matter of bail has to be seen literally through a prism having three angles, i.e., firstly, the angle of welfare and betterment of the child itself, i.e., best interest of the child, secondly, the demands of justice to the victim and her family and thirdly, the concerns of society at large. And in the end, the court has to depend upon its own robust sense of justice."

8. In view of above and further considering the overall facts and circumstances of the case as well as the nature of evidence available on record, this Court finds no error in the impugned orders passed by the Juvenile Justice Board as well as the Appellate Court. Accordingly, the present criminal revision is **dismissed**.

**Order Date :- 12.9.2024**

**Mohit**