

**Court No. - 30**

**Case :-** CRIMINAL REVISION DEFECTIVE No. - 57 of 2024

**Revisionist :-** Juvenile X, In Case Crime No. 249/2020 Thru. Mother

**Opposite Party :-** State Of U.P. Thru. Secy. Deptt. Of Home Lko And 3 Others

**Counsel for Revisionist :-** Suyesh Pradhan

**Counsel for Opposite Party :-** G.A.,Ashok Kumar Srivastava,Avinash Srivastava

**Hon'ble Om Prakash Shukla,J.**

**C.M. Application No.1 of 2024 (delay condonation application)**

1. Heard Shri Suyesh Pradhan, learned counsel for the revisionist, learned A.G.A. for the State-respondent and learned counsel for opposite party.
2. This application has been filed seeking condonation of delay in moving the present criminal revision, which has been filed with a delay of 203 days.
3. Cause shown in the affidavit filed in support of the application is sufficient and as such, delay in filing the criminal revision is condoned.
4. The delay condonation application is **allowed**.

**Order in revision**

1. Heard Shri Suyesh Pradhan, learned counsel for the revisionist, learned A.G.A. for the State, learned counsel for opposite party and perused the entire record.
2. The instant criminal revision is preferred against the

impugned judgment and order dated 20.04.2023 passed by learned Juvenile Justice Board, Faizabad in Case Crime No.249 of 2020 under Sections 302, 201, 120-B, 147, 34 IPC, police station Cantt., District Ayodhya (Annexure no.1) as well as against the order dated 10.08.2023 passed by Court of Juvenile, Ayodhya in Criminal Appeal (Juvenile) No. 24 of 2023 in Case Crime No. 249 of 2020 under Sections 302, 201, 120-B, 147, 34 IPC, police station Cantt., District Ayodhya (Annexure no.2).

3. It has been submitted by learned counsel for the revisionist that the innocent revisionist has falsely been implicated in the present case. The revisionist hails from a family who have no criminal history.

4. His further submission is that both the courts below have been swayed by the alleged seriousness of the offence, whereas for the purposes of enlarging the revisionist on bail under proviso to Section 12(1) of The Juvenile Justice (Care and Protection of Children) Act, 2015 (*hereinafter referred to as Act of 2015*) is significant, which has been overlooked by the court below, therefore, impugned judgment and orders are not sustainable in the eyes of law. He has also submitted that no adverse report against the present revisionist has been given by the District Probation Officer concerned and whatever has been mentioned in the social investigation report against the present revisionist, is not based on any cogent material.

5. His next submission with vehemence is that the co-accused, Brijpal Maurya alias Pally, Aaditya alias Shanu, Ramjeet and Mithilesh alias Bhonpu, who are major, have already been granted bail by Special Judge, POCSO Act, Additional Session Judge-III, Ayodhya vide order dated 10.05.2024 in Sessions Trial No.67 of 2020 titled as *State of U.P. vs. Brijpal Maurya alias Pallu and others*.

**6.** His further submission is that revisionist is confined in the Child Reformatory Home, Ayodhya since 21.03.2023 in connection with the present crime.

**7.** Per contra, learned A.G.A. for the State as well as learned counsel for opposite party No.2 have submitted that the revisionist, though a juvenile in conflict with law, is a budding criminal. He is involved in an offence, which has serious adverse societal impact. Their further submission is that upon his release, there is every likelihood that he will come into association with known criminals, that would lead to the revisionist facing physical, psychological and moral danger. However, they could not dispute the fact that there is nothing on record to suggest that the case of the revisionist falls into any of the three disentitling reasons postulated under the proviso to Section 12(1) of the Act of 2015.

**8.** This Court has keenly considered the rival submissions and perused the records.

**9.** The revisionist was declared a juvenile by the Principal Magistrate, Juvenile Justice Board, Faizabad in the aforesaid case vide order dated 21.03.2023. The revisionist was aged about 17 years 8 months and 26 days on the date of occurrence and this fact remains undisputed.

**10.** From the perusal of the F.I.R. and the overall facts and circumstances of the present case, it is revealed that the revisionist had no criminal history prior to the present case. His family members too have no criminal history. There is nothing on record to suggest that the case of the revisionist falls into any of the three disentitling reasons postulated under the proviso to Section 12(1) of the Act of 2015. A perusal of the impugned orders passed by the learned Juvenile Justice Board and the

learned trial court show that the both courts below have been swayed by the fact that the nature of offence is heinous and therefore, they have concluded that the case of revisionist falls in the three disentitling exceptions postulated under under the proviso to Section 12(1) of the Act of 2015. Further, the gravity of the offence is not relevant consideration for refusing grant of bail to the juvenile. There is nothing on record which substantiates the aforesaid findings/conclusion of the courts below. The aforesaid finding of the courts below is thus, based on surmises and conjunctures only. Therefore, the impugned orders dated 20.04.2023 and 10.08.2023 deserve to be set aside.

**11.** The instant revision, thus, deserves to succeed for the reasons mentioned herein above.

**12.** Accordingly, the instant criminal revision succeeds and is **allowed**.

**13.** The impugned judgment and order dated 20.04.2023 passed by learned Juvenile Justice Board, Faizabad in Case Crime No.249 of 2020 under Sections 302, 201, 120-B, 147, 34 IPC, police station Cantt., District Ayodhya as well as the order dated 10.08.2023 passed by Court of Juvenile, Ayodhya in Criminal Appeal (Juvenile) No. 24 of 2023 in Case Crime No. 249 of 2020 under Sections 302, 201, 120-B, 147, 34 IPC, police station Cantt., District Ayodhya, are hereby, set aside and reversed. The bail application of the revisionist stands **allowed**.

**14.** Let the revisionist, through his natural guardian/ mother be released on bail in the aforesaid case upon his natural guardian/ mother furnishing a personal bond with two solvent sureties of his relatives in the like amount to the satisfaction of the Juvenile Justice Board, Ayodhya subject to the following conditions:

**(i)** The natural guardian/mother 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 father will ensure that the juvenile will not repeat the offence.

**(ii)** The revisionist and his natural guardian/mother will report to the District Probation Officer on the first Monday of every calendar month, commencing with the first Monday of August, 2024 and if during any calendar month the first Monday falls on a holiday, then on the following working day.

**(iii)** The District Probation Officer will keep strict vigil on the activities of the revisionist and regularly draw up his social investigation report, that would be submitted to the Juvenile Justice Board, Ayodhya on such periodical basis as the Juvenile Justice Board may determine.

**(Om Prakash Shukla, J.)**

**Order Date :- 24.7.2024**

Arnima