

Court No. - 29

Case :- CRIMINAL REVISION No. - 254 of 2024

Revisionist :- X Juvenile Of Case Crime No. 161/2023 Thru. His Natural Guardian And Father

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

Counsel for Revisionist :- Dinesh Kr. Chaudhary

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

Heard Shri Dinesh Kumar Chaudhary, learned counsel for the revisionist and learned AGA for the State.

This revision under section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is directed against the judgement and order dated 18.12.2023 passed by learned Judge Juvenile Justice Court/ Special Judge (POCSO) Act, Balrampur in Criminal Appeal No.30 of 2023 dismissing the said appeal arising out of order dated 28.11.2023 passed by Juvenile Justice Board, Balrampur (hereinafter referred to as the 'Board') in Case No.96 of 2023 arising out Case Crime No.161 of 2023, under Sections 363, 376(3) IPC and 3/4(2) POCSO Act, Police Station- Tulsipur, District- Balrampur rejecting the bail application of the revisionist (juvenile).

The following arguments made by learned counsel for the revisionist, which could not be satisfactorily refuted by learned AGA for the State, entitle the revisionist for grant of bail:-

1. The revisionist is juvenile and the victim is a teenager.
2. The revisionist and the victim reside in the same neighbourhood and over the years they developed fondness

for each other.

3. The FIR was a result of the opposition of the victim's family to the said relationship.

4. The incident occurred on 16.06.2023 and the FIR was lodged on 17.06.2023. The delay in lodgement of the FIR in the facts of this case is fatal to the prosecution case.

5. No allegation of commission of rape by the revisionist with the victim was made in the FIR or in the statement of the victim under Section 161 Cr.P.C..

6. Subsequently false and aggravated allegations were made by the victim in her statement under Section 164 Cr.P.C. at the behest of her parents to save the failing prosecution case.

7. The victim was never confined or bound down. She was present at various public places. The victim never raised an alarm nor did she resist the applicant. The conduct of the victim shows that she was a consenting party.

8. Prosecution has failed to produce any medical evidence to establish the commission of rape by the revisionist with the victim.

In the light of the preceding discussion and without making any observations on the merits of the case, the revision is **allowed**. The orders impugned dated 28.11.2023 passed by the Board and 18.12.2023 passed by the Judge Juvenile Court/Special Judge (POCSO) Act, are set-aside.

The revisionist- Juvenile, involved in the aforesaid case be released on bail on his furnishing a personal bond through his natural guardian and two sureties each in the like

amount to the satisfaction of the Board concerned.

Order Date :- 15.3.2024

Ashutosh