

Court No. - 11

Case :- CRIMINAL REVISION No. - 860 of 2024

Revisionist :- N (Juvenile) Thru. Next Friend /Relative (Fufa)

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

Counsel for Revisionist :- Firoz Ahmad Khan, Mohd. Vakar Khan

Counsel for Opposite Party :- G.A.

Hon'ble Abdul Moin, J.

1. Counter affidavit filed today in Court is taken on record. Learned counsel for the revisionist states that he does not intend to file any reply thereto and prays that the matter be heard on merits. As such, this Court proceeds to hear and decide the matter.

2. Heard learned counsel for the revisionist and learned A.G.A. for the State-respondents. As per office report dated 03.09.2024, notice on respondent no.2 has been served personally despite that nobody responds on his behalf.

3. Accordingly, the Court proceeds to hear and decide the matter finally.

4. By means of the instant revision filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, the revisionist has challenged the validity of the order dated 07.06.2024 passed by the Juvenile Justice Board, Ayodhya rejecting his application for release on bail and the order dated 12.07.2024 passed by the Children Court, Ayodhya dismissing Criminal Appeal No.52 of 2024 filed by the revisionist against the order rejecting his bail application.

5. Social Enquiry Report submitted by District Probation Officer mentions that juvenile has no criminal history, relations between the members are amicable, the revisionist has no vices and it will be proper that the revisionist be kept in strict discipline of his parents and

who were also advised to connect him with main stream of the society.

6. The contention of learned counsel for the revisionist is that considering the provisions to Section 12 of the Act, 2015 a juvenile is to be released on bail with or without surety but he shall not be released if there appears reasonable grounds for believing that the release is likely to bring that person into an association with any known or unknown criminal or expose the said person to moral, physical or psychological danger of the person's release would defeat the ends of justice.

7. Placing reliance on recent judgment of Hon'ble Supreme Court in the case of **Juvenile In Conflict With Law V vs State of Rajasthan and another** passed in Criminal Appeal arising out of **Special Leave Petition (Crl) No. 9566 of 2024** decided on 14.08.2024 the contention is that the provision to Sub-Section (1) of Section 12 of the Act 2015 has been considered by Hon'ble Supreme Court wherein Hon'ble Supreme Court has held that a Court while denying bail has to give a finding that the proviso to Section 12(1) of the Act 2015 is applicable to the facts of the case and without recording the said finding bail could not have been denied to juvenile in conflict with law.

8. It is contended that Hon'ble Supreme Court has also considered the psychological assessment report of the juvenile concerned wherein Hon'ble Supreme Court has indicated that against the column of "worry list of child" it is mentioned that there is "no worry" and as such it was a fit case for grant of bail to the juvenile, as such the matter has neither been considered by the juvenile justice board nor by the appellate court while rejecting the bail application.

9. On the other hand, learned A.G.A. has supported the orders impugned on the ground that considering the seriousness of allegations as levelled against the revisionist the learned board and learned appellate court have correctly rejected the bail.

10. Perusal of order of learned juvenile justice board would indicate that learned board has failed to consider the provisions of Section 12 of the Act 2015 while rejecting the application for bail rather the board has gone to the extent that in serious cases the juvenile would not be entitled for bail. Likewise learned appellate court while rejecting the appeal filed by the juvenile has also not considered the provisions of Section 12 of the Act 2015.

11. Hon'ble Supreme Court in the case of ***Juvenile In Conflict With Law V (supra)*** has held as under:

"5. In the entire process, the appellant has completed one year of custody. Section 12 of the JJ Act reads thus:

"Section 12: Bail to a person who is apparently a child alleged to be in conflict with law.

(1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home [or a place of safety, as the case may be] in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section(1) by the Board, it shall make an order sending him

to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfill the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail."

6. From the phraseology used in sub-section 1 of Section 12, a juvenile in conflict with law has to be necessarily released on bail with or without surety or placed under supervision of a probation officer or under the care of any fit person unless proviso is applicable.

7. We have perused all the orders passed earlier by the JJ Board, Special Court and High Court and specially the order dated 11th December, 2023 passed by the JJ Board. There is no finding recorded that the proviso to sub-Section 1 of Section 12 is applicable to the facts of the case. Without recording the said finding, bail could not have been denied to juvenile in conflict with law.

8. Our attention is invited to Psychological Assessment Report of the Juvenile. The report records that the juvenile does not belong to high risk category and against the column "worry list of child" it is mentioned that there was "no worry". The report is signed by a qualified Clinical Psychologist.

9. Though none of the courts at no stage have recorded a finding that in the facts of the case, the proviso to sub-Section 1 of Section 12 was applicable, the juvenile in conflict with law has been denied bail for last one year.

10. Hence, the impugned orders are set aside. The appeal is accordingly allowed.

11. We direct that the juvenile in conflict with law shall be released on bail without surety. However, the jurisdictional Juvenile Justice Board shall issue appropriate directions to the jurisdictional Probation Officer to keep the juvenile under supervision and to submit periodical reports to the Board about the conduct of the Juvenile."

12. From perusal of judgment of Hon'ble Supreme Court, it emerges that Hon'ble Supreme Court has held that from the phraseology used in Section 12(1) of the Act, 2015 a juvenile in conflict with law has to

be necessarily released on bail with or without surety or placed under supervision of a probation officer or under the care of any fit person unless proviso is applicable. The proviso to Section 12(1) of the Act, 2015 would also indicate that the juvenile shall not be released if there appears to be reasonable grounds that release is likely to bring that person into association with any known or unknown criminal or expose the said person to moral, physical or psychological dangers.

13. Perusal of the orders passed by the learned Board as well as the learned appellate court would indicate that both have failed to consider the proviso of Section 12(1) of the Act, 2015.

14. Keeping in view the aforesaid discussion, the revision is allowed. The order impugned dated 07.06.2024 passed by the Juvenile Justice Board, Ayodhya and order dated 12.07.2024 passed by the Children Court, Ayodhya are set aside.

15. Let the revisionist involved in Case Crime No.27 of 2024 under Sections 147, 148, 452, 323, 504, 506, 307, 308, 302, 34, 325 IPC, Police Station Khandasa, District Ayodhya be released on bail on their guardian furnishing personal bond with two solvent sureties of his relatives, each in the like amount to the satisfaction of the Juvenile Justice Board concerned 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. 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 concerned.

16. 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 :- 4.9.2024

A. Katiyar