



2025:UHC:3753

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Criminal Revision No. 965 of 2024

Mohit Revisionist

Versus

State of Uttarakhand Respondent

Present:- Mr. D.N. Sharma, Advocate for the revisionist.
Mr. Deepak Bisht, learned Deputy A.G. along with Mr. Prabhat
Kandpal, learned Brief Holder for the State.

Dated : 07.05.2025

Hon'ble Vivek Bharti Sharma, J. (Oral)

The challenge in this revision is made to the
following:-

*(i) To allow the revision and acquit the revisionist
for the offence punishable under Sections 137(2),
64, 87 and 142 B.N.S. and under Section 5/6 of
the Protection of Children from Sexual Offences
Act, 2012.*

*(ii) To quash and set aside the order dated
25.11.2024 passed by learned Special Judge
(POCSO)/Additional District Judge/F.T.C.,
Haldwani, Nainital in Criminal Appeal No. 10 of
2024 filed by the revisionist against the bail
rejection order dated 18.11.2024 passed by
learned Member, Juvenile Justice Board, Nainital
in F.I.R. No. 304 of 2024. By it, the said appeal
has been dismissed.*

2. Heard learned counsel for the parties and
perused the record.



3. Learned counsel for the revisionist would submit that the revisionist/juvenile is an innocent minor boy and has falsely been implicated in the instant crime; that, the FIR of the alleged incident has been lodged with a delay of two days; that, on the date of commission of the alleged offence, the revisionist/juvenile was of a tender age; in the report of Probation Officer it has been specifically stated that the revisionist/juvenile has no criminal history.

He would further submit that the age of the revisionist was not considered while rejecting the bail application and the same was rejected on the basis of seriousness and gravity of the offence; that, the legal provision provided under Section 12 of the Juvenile Justice Act was not interpreted in the right perspective which requires justice to be done to the juvenile, therefore, the impugned order is apparently illegal and the court below has committed jurisdictional error.

4. Learned counsel for the revisionist/juvenile would submit that the court below erred in law by observing that if the revisionist is released on bail he would be surrounded back by circumstances which may injure his mental and moral health; the revisionist/juvenile has no criminal antecedent. There is no impediment in releasing him on bail.



He would further refer the order of coordinate bench, in which, it was observed that the bail application of the revisionist/juvenile was dismissed without due consideration to the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("the Act"), therefore, there is material illegality and irregularity, hence, the impugned order is liable to be set aside and the revisionist deserves bail.

5. Learned State counsel would oppose the revision by submitting that the allegations against the revisionist/juvenile are serious in nature, however, he would submit that that the report of Probation Officer does not reveal anything against the revisionist.

6. In the matters of juvenile, bail is essentially a rule. As per Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, a juvenile must be released on bail irrespective of the fact as to whether he is involved in bailable or non-bailable offence. The only exception is given under the proviso to Section 12(1) of the Act, according to which, if the release of the juvenile may bring him in the association of any known criminal or it would be dangerous to his psychological development or it may defeat the ends of justice, such juvenile may not be released on bail.



2025:UHC:3753

7. The principles on which the Act has been enacted are given under Section 3 of the Act. According to it, the primary responsibility of nurturing, care and protection of a child in conflict in law lies with his biological family or adoptive family, as the case may be.

8. As a result, the Criminal Revision is allowed. The orders, under challenge, are set aside. The juvenile in conflict with law (*revisionist*) shall be enlarged on bail, subject to production of two reliable sureties in the amount of 15,000/- each and personal bond to be executed by the father of the revisionist to the satisfaction of the Juvenile Justice Board/Court concerned. It is further directed that the custody of the revisionist/juvenile shall be given to his father. The natural guardian/father of the revisionist shall also give an undertaking that he shall take care of the revisionist and shall not allow him to contact any of the witnesses or their family members. The father of the revisionist shall also undertake that he shall also not contact either the witnesses or any of their family members.

9. Pending applications, if any, would stand disposed of.

(Vivek Bharti Sharma, J.)

07.05.2025

Mamta