

Court No. - 78

Case :- CRIMINAL REVISION No. - 849 of 2025

Revisionist :- Juvenile X

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Avinash Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh,J.

The present criminal revision under Section 102 of Juvenile Justice (Care and Protection of Children) Act, 2015 has been preferred against the judgment and order dated 16.01.2025 passed by learned Children Court, Shamli in Criminal Appeal No. 02 of 2025 (Juvenile X vs. State of U.P. and Another) and against order dated 06.12.2024 passed by Juvenile Justice Board, Shamli in Bail Application No. 98/12A of 2024 (State vs. Shivam @ Shubham) arising out of Case Crime No. 428 of 2024, under Sections 103(1), 115(2) BNS, Police Station Shamli, District Shamli, whereby the learned Juvenile Justice Board as well as learned appellate court refused the prayer of bail of accused-revisionist.

Vide order dated 27.02.2025, notice has been issued to opposite party no. 2.

Despite service of notice upon the complainant/informant, no one has put in appearance on his behalf, hence, this Court proceeds to hear this matter on merit.

Heard learned counsel for the revisionist, learned Additional Government Advocate representing the State of U.P. and perused the record.

As per the prosecution case in brief, complainant Raja has lodged an N.C.R. no. 0119 of 2024 on 12.07.2024 against Sunny, Sagar and revisionist for the offence under Section 115(2) B.N.S., 2023. Thereafter, with the permission of Magistrate concerned, an F.I.R. was lodged on 14.07.2024 for

the offence under Sections 109(1) and 115(2) B.N.S., 2023 against all the aforesaid three accused persons but subsequently, due to the death of an injured namely Bobby, the case was converted for the offence under Section 103(1) of B.N.S., 2023.

The main substratum of argument of learned counsel for the revisionist is that general and omnibus allegation has been raised against all the accused persons. It is next argued that only two injured, namely, Smt. Rani and Bobby have sustained injuries and no injury has been sustained to Bittu. Much emphasis has been given by contending that other co-accused namely Sunny and Sagar have been granted bail vide orders dated 26.11.2024 and 18.12.2024 in Criminal Misc. Bail Application Nos. 42246 of 2024 and 44416 of 2024 respectively. The case of present revisionist stands on similar footing to that of other co-accused. It is also submitted that though there was recovery of an iron rod from the possession of Sunny but there was no recovery from the possession of present revisionist.

Learned counsel for the revisionist assailing the impugned orders submits that the revisionist was a juvenile on the date of the alleged incident dated 11.07.2024 and he has been declared juvenile vide order dated 06.12.2024 of Juvenile Justice Board treating the age of revisionist as 12 years 01 month and 09 days on the date of alleged incident. It is next submitted that aforesaid order declaring the revisionist as juvenile has attained finality because the same has not been challenged by the opposite party No.2, the averment in this regard has been made in para no. 15 of the affidavit. The revisionist has remained confined in juvenile home since 29.08.2024.

As to the offence alleged, it is submitted that the revisionist has falsely been implicated in the case with ulterior motive. In this regard, it is further stated that proper investigation was not conducted by the police and thus the revisionist had wrongly been charged with the offence.

It is further being emphasized that the revisionist does not have any criminal antecedent to his credit. Lastly, it is submitted that there is no material on record for believing that the release of revisionist is likely to bring him into association with any known criminal or expose him to moral, psychological danger, therefore, aforesaid impugned orders are not sustainable and liable to be set aside and revisionist is entitled to be released on bail in view of Section 12 of Juvenile Justice (Care and Protection of Child) Act, 2015.

Learned Additional Government Advocate vehemently opposed the present revision. It has thus been submitted, merely because the revisionist is a juvenile it would not entitle him to bail without going into the gravity of the offence, the nature of the crime. It is also contended that the bail sought for has been rightly refused in view of Section 12(1) of Juvenile Justice (Care and Protection of Child) Act, 2015.

Having considered the arguments so advanced by learned counsel for the parties, it is true that a juvenile offender is not entitled as of right to be enlarged on bail, irrespective of any other fact or circumstance, however, it also cannot be denied that in view of specific and special legislative intent and intervention, refusal of bail in the case of a juvenile may be made only for specific reasons and circumstance. Otherwise, a general legislative presumption does appear to exist under the scheme of the Act that the welfare of alleged juvenile offender would be better served without he being confined for long duration. Here, the revisionist has remained in juvenile home since 29.08.2024 against the maximum sentence of three years in case of conviction.

The Court has to see whether the opinion of the learned appellate Court as well as Juvenile Justice Board recorded in the impugned judgment and orders are in consonance with the provision of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 12 of the

aforesaid Act lays down three contingencies in which bail could be refused to juvenile. They are:-

- (1) if the release is likely to bring him into association with any known criminal, or
- (2) expose him to moral, physical or psychological danger, or
- (3) that his release would defeat the ends of justice.

Gravity of the offence has not been mentioned as a ground for rejection of bail in Section 12 of the aforesaid Act. Though the prayer for bail of the revisionist has been opposed by learned counsel for the opposite parties/State, but could not demonstrate from the record that there existed any of the grounds on which bail application of a juvenile could be rejected keeping in view the provisions of Section 12 of the Juvenile Justice Act.

Considering the above, it appears that the findings recorded by the learned Court below are erroneous and cannot be sustained. The aforesaid impugned orders dated 16.01.2025 and 06.12.2024 are hereby set aside.

Accordingly, the present criminal revision is **allowed**.

Let the revisionist-Juvenile X involved in the aforesaid case crime be released on bail on furnishing a personal bond of his father namely Shri Vijaypal who is his natural guardian with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

- (i) The revisionist shall not tamper with the evidence or threaten the witnesses;
- (ii) The revisionist through guardian shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law;

(iii) The revisionist through guardian shall remain present before the trial Court on each date fixed, either personally or through his counsel.

Order Date :- 21.4.2025

Saurabh