

Court No. - 78

Case :- CRIMINAL REVISION No. - 2374 of 2025

Revisionist :- X Juvenile

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

Counsel for Revisionist :- Majahar Ali

Counsel for Opposite Party :- Anil Pathak,G.A.,Satya Narayan Tiwari,Vijay Kumari Pathak

Hon'ble Sanjay Kumar Singh,J.

1-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 05.04.2025 passed by learned Special Judge (Children Court) / Additional Sessions Judge, Gyanpur Bhadohi in Criminal Appeal No. 41 of 2024 (Juvenile vs. State of U.P.) and against order dated 21.03.2025 passed by Principal Magistrate, Juvenile Justice Board, Bhadohi in Case Crime No. 67 of 2024, under Sections 302 and 201 I.P.C., Police Station Gopiganj, District Bhadohi whereby the learned Juvenile Justice Board as well as learned appellate court refused the prayer of bail of accused-revisionist.

2-Heard Mr. Sandeep Kumar Pandey, learned Advocate holding brief of Mr. Majahar Ali, learned counsel for the revisionist, learned Additional Government Advocate representing the State of U.P. and Mr. Anil Pathak, learned counsel for the complainant / informant.

3-As per the prosecution case in brief, complainant who is uncle of the deceased lodged a first information report on 12.03.2024 with regard to an incident dated 08.03.2024 for the offence under Section 363 I.P.C. against unknown person alleging inter-alia that on 08.03.2024 at about 04:00 pm, his nephew Rahul aged about 17 years had gone to participate in Shiv Barat, Gopiganj along with other children of his village. He was also having mobile no. 8081424264, however, he did not return. F.I.R. also alleges that on making an effort, other boys of the

village told him that they have seen Rahul at chori chauraha.

4-Learned counsel for the revisionist assailing the impugned orders submits that the revisionist was a juvenile on the date of the alleged incident dated 08.03.2024 and he has been declared juvenile by Juvenile Justice Board treating the age of revisionist as 15 years 07 months and 05 days on the date of alleged incident. The revisionist has remained confined in juvenile home since 26.07.2024.

5-It is submitted by learned counsel for the revisionist that in this case, F.I.R. has been lodged against unknown person. There is no eye witness of the incident. During investigation, complicity of the revisionist along with others came into light in the statement of Babu Bind @ Vrikshpal Bind who has stated inter-alia that the revisionist and co-accused Karan Banwasi have come to his place and confessed their guilt stating inter-alia that since Rahul, has also worn a black cloth, therefore, under some confusion, he was done to death by them and they have also thrown his dead body in a well.

6-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.

7-Learned Additional Government Advocate as well as learned counsel for the informant vehemently opposed the present revision by contending that there are circumstantial evidence against the revisionist. 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.

8-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 26.07.2024 against the maximum sentence of three years in case of conviction. This Court is also of the view that in cases of circumstantial evidence, entire chain of circumstances on which conclusion of guilt is to be drawn, should be fully established and should not leave any reasonable ground of doubt. There is no direct evidence against the revisionist except extra-judicial confession of the revisionist before Babu Bindu @ Vrikshpal Bindu.

9-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:-

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

10-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, 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.

11-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 05.04.2025 and 21.03.2025 are hereby set aside.

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

13-Let the revisionist X Juvenile, involved in the aforesaid case crime be released on bail on furnishing a personal bond of his father namely Mr. Khilodhar Bindu 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 :- 27.5.2025

Saurabh