

Court No. - 47

Case :- CRIMINAL REVISION No. - 250 of 2025

Revisionist :- Juvenile X

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

Counsel for Revisionist :- Prateek Dwivedi, Praveen Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth, J.

As per report of the office dated 21.04.2025, notice on opposite party no.2 has been served personally but no one has turned up to oppose this bail application.

Heard learned counsel for the revisionist and learned A.G.A. for the State.

The present criminal revision has been filed to quash the order dated 27.11.2024 passed by Special Judge, (POCSO Act)/Additional District and Sessions Judge, Varanasi in Juvenile Criminal Appeal No.218 of 2024 and the order dated 23.10.2024 passed by the Juvenile Justice Board, Varanasi in Case Crime No. 381 of 2024, under Sections 376, 506, 341 I.P.C, Police Station Bhelupur, District Varanasi.

Learned counsel for the revisionist submits:

(i) admittedly, the revisionist was a juvenile aged about 17 years 5 months 25 days on the date of alleged incident; he is in child protection home since 17.09.2024.

(ii) the applicant has been falsely implicated;

(iii) there is no specific or strong objection raised in the DPO report, other than the general and vague observations;

(iv) there is no criminal history of the revisionist;

(v) there is no hope of early conclusion of the trial;

(vi) the revisionist has remained confined in the child observation home for an unduly long period of time;

(vii) none of the grounds contemplated under section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the Act) are available, to deny the bail to the applicant.

(ix) therefore, the impugned orders have been assailed as erroneous and contrary to law.

Learned A.G.A. for the State vehemently opposed the present criminal revision. It is submitted, the incident reported is true and it is wrong to say

that the allegations made against the applicant are false, and/are motivated. Also, reliance has been placed on the findings recorded in the bail rejection orders to submit that the instant revision may be dismissed.

It is not in dispute that the applicant is a juvenile and is entitled to the benefits of the provisions of the Act. Under Section 12 of the Act, the prayer for bail of a juvenile may be rejected 'if there appear reasonable grounds for believing that the release of the juvenile is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice'.

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 the Act. Section 12 of the Act lays down three contingencies in which bail may be refused to a juvenile offender. These 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?

Gravity of the offence has not been mentioned as a ground to reject the bail. It is not a relevant factor while considering to grant bail to the juvenile. It has been so held by this Court in Shiv Kumar alias Sadhu Vs. State of U.P. 2010 (68) ACC 616(LB). It has been consistently followed in subsequent decisions of this court.

Thus, it remains largely undisputed that the revisionist - was a juvenile on the date of occurrence; does not appear to be prone to criminal proclivity or criminal psychology, in light of the observations of the D.P.O; does not have a criminal history; has been in confinement for an unduly long period of time, in as much as the trial has not concluded within time frame contemplated by the Act. Even otherwise, there does not appear to exist any factor or circumstance mentioned in section 12 of the Act as may disentitle the applicant to grant of bail, at this stage. The father of the revisionist undertakes to address the statutory concerns expressed in section 12 of the Act, as to the safety and well being of the applicant, upon his release.

In view of the above, it appears that the findings recorded by the learned Court below are in conflict with the settled principle in law, for the purpose of grant of bail and are erroneous and contrary to the law laid down by this court. Consequently, those orders cannot be sustained. The impugned orders are hereby **set aside**.

In view of the observations made above, the present criminal revision is allowed. Let the revisionist Juvenile 'X' involved in the aforesaid case crime be released on bail, on his furnishing personal bond with two sureties each of 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. In case of his absence, without sufficient cause, the trial Court may proceed against him under Section 229-A of the Indian Penal Code.

Registrar (compliance) is directed to communicate the order to the Child Observation Home concerned within a week.

Order Date :- 8.7.2025

SS