

Court No. - 80**Case :-** CRIMINAL REVISION No. - 4587 of 2022**Revisionist :-** X-Juvenile**Opposite Party :-** State Of U.P. And 3 Others**Counsel for Revisionist :-** Madhusudan Dikshit, Atul Kumar Singh**Counsel for Opposite Party :-** G.A.**Hon'ble Subhash Chandra Sharma, J.**

Heard learned counsel for the revisionist and A.G.A. for the State and perused the material on record.

The present criminal revision has been preferred by the revisionist through his mother under Section 102 of the Juvenile Justice (Care and Protection) Act-2015 (hereinafter referred to as "J.J. Act, 2015) to allow the present revision and set aside the impugned judgment and order dated 09.09.2022 passed by learned appellate court/Additional Sessions Judge as well as order dated 09.06.2022 passed by Juvenile Justice Board, Fatehpur in Case Crime No.161 of 2021, under Sections 376 AB, 504, 506 I.P.C. & Section 5/6 POCSO Act & Section 3(2)5, 3(2) (5Ka) SC/ST Act, Police Station Ashothar, District Fatehpur and also prays to release the revisionist/delinquent on bail in the aforesaid case.

It is submitted that in this case the delinquent/applicant was aged about 16 years, 5 months and was juvenile at the time of alleged incident. As per allegation in F.I.R. the delinquent molested the victim when she was coming back to her home from school with a child. Further submitted that no any accusation of sexual intercourse by the delinquent with the victim was made but during investigation improvement in the statement of the victim was made regarding entering finger in her private part. During medical examination no any injury was found on her person which suggests that no any such act was done with the victim but on account of village rivalry the delinquent has been falsely implicated in the present case. The report submitted by the D.P.O. is also not adverse for the present delinquent even though the juvenility of the delinquent was not considered either by the J.J. Board or by the appellate court and also the provisions as contained u/s 12 of the aforesaid Act were not considered by the courts below while passing the aforesaid orders. The delinquent is in Juvenile Care Home since 12.11.2021 (i.e. more than one and a half years) and his psychology is being affected adversely, therefore, requested to set aside the orders passed by the J.J. Board as well as appellate court and allow the present criminal revision as the orders passed by the courts below cannot be said to be in conformity with law.

Learned A.G.A. opposed the prayer as aforesaid.

Considering the facts and circumstances of the case, submission made by learned counsel for the revisionist as well as learned A.G.A., perusal of record, the provisions as contained u/s 12 of Juvenile Justice Act, the report submitted by the District Probation Officer, the medical examination report and the period present delinquent remained in child care home, it appears that Juvenile Justice Board as well as the appellate court had not considered the relevant provisions and the material on record in well manner but passed the orders without applying their judicial mind. In this way, there appears ground in this revision and the orders passed by the Juvenile Justice Board as well as learned appellate court are liable to be set aside.

Accordingly, the orders passed by Juvenile Justice Board dated 09.06.2022 and the appellate court dated 09.09.2022 are, hereby, set aside and the present criminal revision is hereby, **allowed**.

It is directed that delinquent/applicant be released on bail in the aforesaid case on executing person bond by the revisionist (mother of the delinquent) and two sureties each in the like amount to the satisfaction of the Juvenile Justice Board concerned on following conditions :-

(i) The natural guardian/mother will furnish an undertaking that upon release on bail the revisionist will not be permitted to go into contact or association with any known criminal or allowed to be exposed to any moral, physical, or psychological danger and further that the mother will ensure that the juvenile will not repeat the offence.

(ii) The natural guardian/mother 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 besides other constructive activities and not be allowed to waste his time in unproductive and excessive recreational pursuits.

(iii) Juvenile and the natural guardian/mother will report to the Probation Officer on the first Monday of every calendar month.

(iv) The Probation Officer will keep a 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 on such a periodical basis as the Juvenile Justice Board may determine.

Order Date :- 28.7.2023/Ashok Gupta