

R Juvenile vs State Of U.P. And Another on 1 May, 2025

Author: Sanjay Kumar Singh

Bench: Sanjay Kumar Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:69074

Court No. - 78

Case :- CRIMINAL REVISION No. - 792 of 2025

Revisionist :- R Juvenile

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

Counsel for Revisionist :- Ashutosh Upadhyay

Counsel for Opposite Party :- G.A., Ram Surat Patel

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 23.01.2025 passed by learned Children Court / Special Judge (POCSO Act), Court No. 1, Moradabad in Criminal Appeal No. 01 of 2025 (R. vs. State of U.P. and Another) and against order dated 02.01.2025 passed by Juvenile Justice Board, Moradabad in Case No. 81 of 2024 (State vs. R.) arising out of Case Crime No. 82 of 2024, under sections 323, 304, 308, 504, 506 I.P.C., Police Station Sonakpur, District Moradabad, whereby the learned Juvenile Justice Board as well as learned appellate court refused the prayer of bail of accused-revisionist.

2-Heard learned counsel for the revisionist, learned Additional Government Advocate representing the State of U.P., Mr. Ram Surat Patel, learned counsel for the complainant and perused the record.

3-As per the prosecution case in brief, complainant who is an injured got a first information report lodged on 01.07.2024 with regard to an incident dated 30.06.2024 against Saalim, Shannu, Sairin and revisionist for the offence under Sections 323, 308, 504 and 506 I.P.C. making general allegation of assault with a stick against the aforesaid accused persons whereby the complainant and his sister Shama have received injuries.

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 30.06.2024 and he has been declared juvenile vide order dated 22.11.2024 of Juvenile Justice Board treating the age of revisionist as 15 years 05 months and 29 days on the date of alleged incident. The revisionist has remained confined in juvenile home since 24.07.2024.

5-As to the offence alleged, it is submitted that the revisionist has falsely been implicated in the case with an ulterior motive. General and omnibus allegation has been levelled against all the accused persons. The injured Shama died on 03.07.2024. It is also submitted that co-accused Sairin has been granted bail by the court below vide order dated 14.08.2024 in Criminal Bail Application No. 2649 of 2024 and co-accused Saalim and Shannu have been granted bail by the coordinate Bench of this Court vide orders dated 24.10.2024 and 05.12.2024 in Criminal Misc. Bail Application Nos. 35417 of 2024 and 43790 of 2024 respectively. The case of the present revisionist stands on similar footing to that of co-accused Saalim, hence, the bail application of the revisionist is liable to be allowed.

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 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.

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 24.07.2024 against the maximum sentence of three years in case of conviction.

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 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.

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 23.01.2025 and 02.01.2025 are hereby set aside.

12-Accordingly, the present criminal revision is allowed.

13-Let the revisionist R Juvenile, involved in the aforesaid case crime be released on bail on furnishing a personal bond of his guardian uncle (Fufa), namely, Shera 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 :- 1.5.2025 Saurabh