

(2022) 04 UK CK 0123

In the Uttarakhand High Court

Case No : Criminal Revision No. 305 Of 2021

Minor, Through His Natural Guardian (Father)

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 29-04-2022

Acts Referred:

Indian Penal Code, 1860 — Section 377

Protection Of Children From Sexual Offences Act, 2012 — Section 5, 6

Citation : (2022) 04 UK CK 0123

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Shailabh Pandey, Atul Kumar Shah

Final Decision : Allowed

Judgement

Alok Kumar Verma, J

1. This Criminal Revision is directed against the judgment dated 22.09.2021, passed by the Children Court/F.T.C./ Additional Sessions Judge/ Special Judge, POCSO, Rudrapur, District Udham Singh Nagar, in Criminal Bail Appeal No.177 of 2021, "Mohd. Kaish (minor) through his father vs. State", whereby, the appeal has been dismissed.

2. According to the First Information Report, the revisionist had carnal intercourse against the order of nature with the minor victim, aged about six years. The FIR (No.196 of 2021 of Police Station Sitarganj, District Udham Singh Nagar) was registered under Section 377 of IPC and Section 5/6 of the Protection of Children from Sexual Offences Act, 2012.

3. The revisionist had moved an application for bail. On 04.09.2021, the bail application was rejected by the Juvenile Justice Board, Udham Singh Nagar. An appeal was preferred by the revisionist against the order of the Juvenile Justice Board. The appeal has been dismissed by the impugned judgment. Hence, this Revision.

4. Heard Mr. Shailabha Pandey, learned counsel for the revisionist and Mr. Atul Kumar Shah, learned Deputy Advocate General for the State.

5. The learned counsel for the revisionist submitted that the revisionist has been implicated in this matter and the prosecution witnesses, the father (PW1), mother (PW2) of the alleged victim and even the alleged victim (PW3) have not supported the prosecution story.

6. The learned counsel for the State fairly conceded that the prosecution witnesses, including the victim, have not supported the prosecution.

7. In view of the totality of the facts and circumstances of this case, the present Revision is allowed. The impugned order dated 04.09.2021, passed by the Juvenile Justice Board, Udham Singh Nagar, and, the judgment dated 22.09.2021, passed by the Appellate Court, are hereby set aside. The revisionist is directed to be released on bail on executing a personal bond through his natural guardian or near relative, to the satisfaction of the Juvenile Justice Board, Udham Singh Nagar.