

(2023) 12 UK CK 0065
In the Uttarakhand High Court
Case No : Criminal Revision No. 776 Of 2023

X And Y, Through Their Mothers

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 13-12-2023

Acts Referred:

Juvenile Justice (Care And Protection Of Children) Act, 2015 — Section 12, 102
Indian Penal Code, 1860 — Section 34, 147, 148, 149, 302, 323, 452, 504, 506
Code Of Criminal Procedure, 1973 — Section 161

Citation : (2023) 12 UK CK 0065

Hon'ble Judges : Alok Kumar Verma, J

Bench : Single Bench

Advocate : Sharang Dhulia, V.K. Jemini

Final Decision : Allowed

Judgement

Alok Kumar Verma, J

1. The proposed Criminal Revision has been preferred under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short, "Act, 2015"), challenging the judgment dated 12.09.2023, passed by learned Children Court/FTC/ Additional Sessions Judge(POCSO), Udham Singh Nagar in Criminal Bail Appeal No.149 of 2023, whereby, the learned Appellate Court has dismissed the Appeal and affirmed the order dated 19.07.2023, passed by Juvenile Justice Board, District Udham Singh Nagar (in short, "Board") in Bail Application No. 57 of 2023, by which, the bail applications of the revisionists, filed through their mothers under Section 12 of the Act, 2015 in respect of Case Crime No. 263 of 2023, registered at Police Station Bazpur, District Udham Singh, were rejected. Revisionists are detained in the observation home since 13.06.2023 for the offence under Sections 147, 148, 149, 323, 504, 506, 452 and Section 302 read with Section 34 of the Indian Penal Code, 1860.

2. Heard Mr. Sharang Dhulia, learned counsel for the revisionists and Mr. V.K. Jemini, learned Deputy Advocate General for the State.

3. Objection, filed by the State, is taken on record.

4. Admit.

5. Opposing the Revision, Mr. V.K. Jemini, learned Deputy Advocate General appearing for the State, submitted that on the night of 02.06.2023, revisionists along with the co-accused persons committed the murder of the informant's son by beating him with sticks, sharp edged weapon and iron rods.

6. Mr. Sharang Dhulia, Advocate, appearing for the revisionists, contended that the revisionists, aged about 15 and 16 years respectively, have been falsely implicated in the present matter. There are material contradictions in the statements of the injured and other witnesses, recorded under Section 161 of the Code of Criminal Procedure, 1973. Revisionists are pursuing their studies. According to the Social Investigation Report, revisionists do not have any bad habits. They have not been found involved in any unacceptable activities.

7. Undisputedly, the revisionists were juvenile at the time of the alleged offence. Section 12 of the Act, 2015 deals with bail to juvenile, which reads as under:-

"12. Bail to a person who is apparently a child alleged to be in conflict with law. -
(1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home or a place of safety, as the case may be in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board

for modification of the conditions of bail.”

8. While implementing the provisions of the Act, 2015, the Court shall be governed by the principle of best interest i.e. all decisions regarding the child shall be based on the primary consideration that they are in the interest of the child. The object of the Act, 2015 is reformatory and not further degradation.

9. Having considered the submissions made at the bar and in the facts and circumstances of the case, this Court is of the view that the present revision may be allowed.

10. Consequently, the present Criminal Revision is allowed. The judgment dated 12.09.2023, passed by learned Appellate Court and order dated 19.07.2023, passed by Board are set aside.

11. Let the revisionists, who are detained in the observation home, be released on bail after furnishing personal bonds by their mother/natural guardian with two reliable sureties in the like amount to the satisfaction of the Board concerned subject to the following conditions:-

(i) The mother/natural guardian of the revisionists shall furnish an undertaking that the revisionists will pursue their studies.

(ii) The mother/natural guardian of the revisionists shall furnish an undertaking that upon release on bail, the revisionists will not be permitted to come into contact with any known criminal.