

(2023) 01 UK CK 0041

Uttarakhand High Court

Case No: Criminal Revision No. 673 Of 2022, Bail Application (IA) No.1 Of 2022

X

APPELLANT

Vs

State Of Uttarakhand
And Another

RESPONDENT

Date of Decision: Jan. 6, 2023

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 161, 164#Juvenile Justice (Care And Protection) Act, 2015 " Section 3, 12(1)

Citation: (2023) 01 UK CK 0041

Hon'ble Judges: Ravindra Maithani, J

Bench: Single Bench

Advocate: Tarun Pande, V.S. Rathore

Final Decision: Allowed

Judgement

Ravindra Maithani, J

1. Instant revision is preferred against the following:-

(i) Order dated 03.08.2022, passed in Bail Application No.67 of 2022, State vs. X, by the court of Juvenile Justice Board, Udham Singh Nagar (for

short, "JJ Board"). By it the bail application of the revisionist, who is a Child in Conflict with Law (for short, "the CIL") has been rejected

and;

(ii) Judgment and Order dated 03.09.2022, passed in Criminal Bail Appeal No.183 of 2022, X vs. State of Uttarakhand, by the court of Children

Court/FTC/Additional Sessions Judge/Special Judge POCSO, Udham Singh Nagar (for short, "the appeal"). By which, order dated 03.08.2022 of

the JJ Board has been upheld. The CIL seeks bail.

2. According to the FIR, the CIL enticed the victim, a young girl of 13 years of age from her house on 29.06.2022 at 09:00 in the morning.

3. Learned counsel for the CIL would submit that the statement of the victim is contradictory as given during investigation under Sections 161 and 164

of the Code of Criminal Procedure, 1973 (for short, "the Code"). The Probation Officer's report does not reveal anything against the CIL.

4. Learned State counsel would submit that the victim has supported the prosecution case under Section 164 of the Code, but he would submit that the

Probation Officer's report does not reveal anything against the CIL.

5. It is also argued that the CIL has a family to look after; he is not a criminal; he may be given in the custody of his mother, so that he may stay with

his family.

6. A CIL is always entitled to bail irrespective of the offence being bailable or non-bailable. The only rider is given under Section 12(1) proviso of the

Juvenile Justice (Care and Protection) Act, 2015 (for short, "the Act"), according to which, a CIL may not be released on bail, if there appears

reasonable grounds for believing that his release may likely to bring him into association with any known criminal or expose him to moral, physical or

psychological danger or his release would defeat the ends of justice.

7. The principles which governs the Act are given under Section 3 of the Act. One of those principles defines the responsibility of biological family of

the CIL. According to it, it is the primary responsibility of the biological family of a CIL to nurture, look after and take care of the CIL.

8. The CIL in the instant case, has family to look after. The Probation Officer's report is on record, which reveals that the CIL has a family to

look after. There are members in his family. The CIL has no criminal antecedents.

9. Having considered the entirety of facts, this Court is of the view that it is a case which does not attract the proviso to Section 12(1) of the Act.

The best interest to the CIL could be served, if the CIL is given in the custody of his mother. Accordingly, the revision deserves to be allowed.

10. The revision is allowed. The impugned judgments and orders are set aside.

11. The CIL be given into the custody of his mother subject to production of two reliable sureties. The mother of the CIL shall also give an

undertaking that she shall take care of the CIL and shall not allow him to contact any of the witnesses or their family members. The mother of the

CIL shall also undertake that she shall also not contact either the witnesses or any of their family members.