

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 5910/2023

(Arising out of impugned judgment and order dated 22-02-2023 in CRLR No. 860/2013 passed by the High Court of Judicature at Allahabad)

AMIT VERMA @ PAPPAN

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

(FOR ADMISSION and I.R. and IA No.94570/2023-EXEMPTION FROM FILING O.T.)

Date : 31-07-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Rishi Malhotra, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Rishi Malhotra, learned counsel appearing for the petitioner.

The petitioner's claim of being a juvenile on 27.04.2004 i.e., on the date of the FIR No. 228 of 2004, was rejected by the Sessions Court. This was upheld by the High Court advertent to the medical report given by the Doctor. The medical report suggests that the petitioner is about 19 years of age.

Assailing the above, the learned counsel would refer to the School Leaving Certificate where the date of birth of the petitioner is shown as 12.12.1988 and if this date is taken into account, the age of the petitioner would be about 15½ years on the

date of the incident. The Court however considered certain error in the transfer certificate but refused to consider the school certificate although the clerical mistake was explained by the witness Sajjan Babu Sharma before the Court. This is how the primary document i.e., the School Leaving Certificate which is expected to be relied on for considering the claim towards juvenility as was held by three-Judges Bench of this Court in *Abuzar Hossain alias Gulam Hossain v. State of West Bengal* reported in (2012) 10 SCC 489, was disregarded by the courts below. In this judgment, the three-Judges Bench held that under Rule 12 of the The Juvenile Justice (Care and Protection of Children) Rules, 2007, the date of birth certificate from the school should first be considered and only if the same is not available, other age related materials could be taken into account.

Issue notice both on the Special Leave Petition as also on the prayer for bail. Notice is made returnable in three weeks.

The learned counsel for the petitioner is permitted to serve Dasti notice additionally, on the Standing Counsel for the State of Uttar Pradesh.

(NITIN TALREJA)
COURT MASTER (SH)

(KAMLESH RAWAT)
ASSISTANT REGISTRAR