



ITEM NO.58

COURT NO.9

SECTION II

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)

(IA No. 94570/2023 - EXEMPTION FROM FILING O.T.)

Date : 25-08-2023 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE SANJAY KAROL

For Petitioner(s) Mr. Rishi Malhotra, AOR
Mr. Jaydip Pati, Adv.

For Respondent(s) Mr. Ravindra Kumar Raizada, Sr. Adv.
Mr. Shashank Shekhar Singh, AOR

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 State is represented by Mr. R.K. Raizada, learned senior counsel.

2. Notice in the present case was issued on 31.07.2023 with the following order:

"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."

3. The learned counsel would then point out from the evidence of the Vice Principal of the Guru Nanak Senior Secondary School that the date in the school leaving certificate of the petitioner was mistakenly mentioned as 16.07.2000 while the correct date of leaving school was 16.07.2001 but only because of this clerical

mistake which is clarified in the deposition of the Vice Principal who appeared in the Court as CW-1 (Annexure P/7), the learned ASJ on 13.03.2013 declared the petitioner to be not a juvenile. Mr. Malhotra would then advert to both the transfer certificate, the school register (Annexure P/2 and Annexure P/3) to point out that the petitioner's date of birth is recorded as 12.12.1988 in the school documents and if those are taken into account, he will be below 16 years on the date of the incident i.e., 27.04.2004.

4. The counsel would also advert to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000 to point out that when a person is apparently projected to be a juvenile, he deserves to be granted bail.

5. Having considered the above and the submissions of the learned counsel for the State, we deem it appropriate to grant bail for the petitioner who has spent around 8½ years of actual custody following his conviction under Section 302 and other Sections of IPC. Appropriate bail conditions to be imposed by the trial court.

6. Leave granted. Lower court records be called.

(NITIN TALREJA)
COURT MASTER (SH)

(KAMLESH RAWAT)
ASSISTANT REGISTRAR