

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.68 of 2025**

Arising Out of PS. Case No.-408 Year-2023 Thana- BIHPUR District- Bhagalpur

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S.K.Y. @ S.K.Y. @ S.K. @ S S/O Late Dhrub Yadav (The real name of the petitioner has been withheld to protect his identity, the real name of the peitioner is mention at serial No. 04, of Column No. 7 of F.I.R) Narayanpur, P.S- Bhawanipur, Distt.- Bhagalpur, Under Guardianship of Santosh Yadav, Son of Pappu Yadav, R/O Village- Baikatpur, P.O- Amari (Bishanpur) Mirjapur, P.S- Mirjapur, Distt.- Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar
2. Renu Devi W/O Late Dharmendra Sharma R/O Village- Raipur, P.S- Bhawanipur (OP), Distt.- Bhagalpur.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Amrendra Kumar, Advocate  
For the State : Mr.Sanjay Kumar Tiwary, APP  
For the Informant/O.P. No. 2: Mr. Dharmveer, Advocate

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL JUDGMENT**

**Date : 02-12-2025**

Heard learned counsel for the petitioner and learned APP for the State as well as learned counsel appearing on behalf of the informant/opposite party no. 2.

2. The instant criminal revision petition has been filed for setting aside the judgment dated 03.12.2024 passed by learned Additional Sessions Judge 1st -cum- Special Judge (Children Court), Bhagalpur in Criminal Appeal No. 55 of 2024,



whereby and whereunder the learned appellate court while upholding the order dated 18.10.2024 passed by learned Juvenile Justice Board, Bhagalpur in JJB 338 of 2024, arising out of Bihpur (Bhawanipur) P.S. Case No. 408 of 2023 refused to grant bail to the petitioner/child in conflict with law (In short 'CICL').

3. Briefly stated the facts of the case is that Bihpur (Bhawanipur) P.S. Case No. 408 of 2023 was registered under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act on the written report of one Renu Devi and in her written report, the informant named the petitioner and other co-accused persons for assaulting her husband and thereafter, shooting him dead. The age of the petitioner was assessed by learned Juvenile Justice Board, Bhagalpur to be 16 years 09 months and 17 days on the date of occurrence. Thereafter, the prayer for bail was made before the learned Juvenile Justice Board. Vide order dated 18.10.2024, the learned Juvenile Justice Board dismissed the bail petition of the CICL. Subsequently, Criminal Appeal No. 55 of 2024 was filed before the court of learned Additional Sessions Judge 1st -cum- Special Judge (Children Court), Bhagalpur and vide judgment dated 03.12.2024, the learned appellate court also dismissed the



appeal. Aggrieved by the dismissal order, the instant revision petition has been preferred on behalf of the CICL.

4. Learned counsel for the petitioner submits that the petitioner is child in conflict with law and from the FIR itself it is evident that there was no involvement of the CICL in causing death of the husband of the informant. Learned counsel further submits that both the courts below have not considered the interest of the CICL and rejected the prayer for bail mainly on consideration that the parents of the petitioner have died and there is nobody to take care of the petitioner and protect the life of the petitioner. Learned counsel further submits that the CICL is in custody since 30.10.2023 and is having antecedent of two cases. But the brother-in-law of the CICL, who is deponent in the present case, has undertaken to protect the life of the petitioner and also to take care of him so that he does not fall in bad company.

5. Learned APP as well as learned counsel appearing on behalf of the informant/opposite party no. 2 vehemently contend that the CICL does not deserve to be enlarged on bail and the orders have been rightly passed by the learned courts below. Learned counsel for the opposite party no. 2 submits that the father of the CICL was also a notorious criminal and it has



come on record that the CICL used his father's illegal firearm and habitually assaulted people on minor issues. Learned counsel further submits that after death of his parents, there is no one to take care of the petitioner and if enlarged on bail, he would continue in bad company and there is no chance of the reformation.

6. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as under:-

*“Section 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 persons 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.”*

Therefore, only if there appears to be reasonable ground for believing that if the CICL is released on bail and such release would bring him in association with the criminals or expose him to moral physical or psychological danger or his release would defeat the ends of justice, the bail shall be denied and reasons for the denial would be recorded. Therefore, it is apparent that a CICL shall be released on bail notwithstanding anything contained in the Code of Criminal Procedure, 1973.

7. Now at the same time, Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015, inter alia, provides for the general principles of care and protection of children and are extracted herein below:-

*“The Central Government, the State*



*Governments, I[the Board, the Committee, or] other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:---*

*(i) Principle of presumption of innocence: Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.*

*(ii) Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.*

*(iii) Principle of participation: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.*

*(iv) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.*

*(v) Principle of family responsibility: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.*

*(vi) Principle of safety: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.*

*(vii).....*

*(viii) Principle of non-stigmatising semantics: Adversarial or accusatory words are not to be used in the processes pertaining to a child.*

*(ix).....*

*(x).....*

*(xi).....*

*(xii) Principle of institutionalisation as a measure of last resort: A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.*

*(xiii) Principle of repatriation and restoration: Every child in the juvenile justice system shall*



*have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.*

*(xiv).....*

*(xv).....*

*(xvi).....”*

8. Cumulative reading of these two provisions makes it clear that there is presumption of innocence of a child in conflict with law and all decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential. At the same time, all measures will be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter. In this case, no doubt the social background report and social investigation report show that the child in conflict with law is not having guardian in form of parents or even brother or sister. However, the Probation Officer has reported that the uncle and aunt of this petitioner, who are the elder brother and the sister-in-law of the deceased father of the CICL, have shown interest to take care of the child in conflict with law. At the same time, the deponent who is stated to be the husband of the cousin of the CICL has also undertaken to take care of the child in conflict with law and also to take



further steps for his protection.

9. Considering the interest of the CICL to be of paramount importance and further finding that keeping the child in observation home may not serve the purpose of his reformation, this court is of the view that for the best interest of the child, he could be released on bail on submission of affidavit of due undertaking by the uncle as well as the deponent of the present case for taking good care of the child in conflict with law and for protection, both physical and mental, of the child before the learned Juvenile Justice Board. Accordingly, the child in conflict with law shall be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Bhagalpur/ concerned court in connection with JJB 338 of 2024, arising out of Bihpur (Bhawanipur) P.S. Case No. 408 of 2023, subject to the following conditions:

- (i) The uncle of the child in conflict with law shall furnish an undertaking before the learned Juvenile Justice Board that he will take care of the child in conflict with law and will keep him in safe custody



and produce him before the learned Juvenile Justice Board as and when required.

(ii) The deponent shall also furnish undertaking before the learned Juvenile Justice Board in this regard.

10. Accordingly, the Judgment dated 03.12.2024 passed by the Additional Sessions Judge-Ist -cum- Special Judge (Children Court), Bhagalpur and order dated 18.10.2024 passed by the learned Juvenile Justice Board, Bhagalpur are set aside and present revision petition is allowed.

**(Arun Kumar Jha, J)**

DKS/-

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