

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.237 of 2025

Arising Out of PS. Case No.-121 Year-2024 Thana- R S P.S. District- Araria

Md. Rahul @ Rahil S/O Md. Sanjur R/O Village- Dhama Raghunathpur, Ward No. 13, P.S- Araria R.S., Dist.- Araria. Living under guardianship of his mother namely Begam aged about 35 years, R/O Village- Dhama Raghunathpur, Ward No. 13, P.S- Araria R.S., Dist.- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Asida Khatoon W/O Md. Samad R/O Village- Raghunathpur, Ward No. 13, P.S- R.S. (Araria), Dist.- Araria.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Madhav Jha, Adv.
For the Respondent/s : Mr.Aditya Narayan Singh.1, Spl.P.P.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 02-12-2025

Heard learned counsel for the petitioner/child in conflict with law and learned counsel for the State.

02. The petitioner is a juvenile in conflict with law and the instant revision petition is preferred on behalf of the petitioner for setting aside the impugned Judgment/Order dated 15.01.2025 passed by learned District and Additional Sessions Judge-1st-cum-Special Judge (Juvenile Court) Araria, in Criminal Appeal No. 33 of 2024 arising out J.J.B. No. 102 of 2024 in connection with Araria R.S. P.S. Case No. 121 of 2024 for the offences under Section 126(2), 115(2), 65(1), 351 (2) & (3), 352, 3/5 of the B.N.S. and Section 06 of the POCSO Act



whereby and whereunder the learned District and Additional Sessions Judge-1st-cum-Special Judge (Juvenile Court) Araria rejected the appeal of the petitioner for grant of bail and the order dated 29.10.2024 passed by learned Principal Magistrate, Juvenile Justice Board, Araria was upheld.

The present revision is also preferred against order dated 29.10.2024 passed by the learned Principal Magistrate, Juvenile Justice Board, Araria in Araria R.S. P.S. Case No. 121 of 2024 wherein the prayer for regular bail of the petitioner was rejected.

03. Brief facts of the case are that the informant gave a written report stating that the petitioner who is a child in conflict with law (In short 'CICL') committed sexual assault upon her minor daughter and raped her. When the informant reached the spot, the petitioner fled away.

04. Learned counsel for the petitioner/CICL submits that the orders of the learned courts below are against the law as well as the facts existing on record. The age of the petitioner was assessed to be 14 years, 6 month and 13 days vide order dated 12.09.2024 whereas the daughter of the informant was aged 15 years as per the version of the informant. No material was found to show that CICL committed sexual assault over the



daughter of the informant. The FIR has been lodged after much delay as occurrence is stated to have taken place on 08.08.2024 whereas the FIR was lodged on 24.08.2024 without any explanation. This shows the falsity of allegation. On medical examination of the victim, her age was assessed to be 14-16 years and no sign of recent sexual assault was found and hymen was found intact. While rejecting the prayer for bail of the CICL the learned appellate court as well as the learned Juvenile Justice Board did not consider the best interest of the child. There is no material on record to show that granting bail to the CICL would bring him into association with the criminals and expose him to moral, physical or psychological danger and his release would defeat the ends of justice. The CICL is having no criminal antecedent and he is in custody since 29.08.2024. Learned counsel for the CICL also submits that the mother of the CICL has given an undertaking that she will take care of her son and will protect her son from anti-social elements and anti-social activities. Thus, the learned counsel submits that the impugned orders are bad and the same needs to be set aside and the CICL may be enlarged on bail.

05. Despite valid service of notice, no one appears on behalf of the opposite party no. 2/the informant.



06. I have given my thoughtful consideration to the submission made on behalf of the parties and the matter at hand.

07. 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 available 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 1[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, there exists a non-obstante clause that child in conflict with law **shall** be released on bail notwithstanding anything contained in the Code of Criminal Procedure, 1973. Therefore, it is apparent that the bail could be denied to the child in conflict with law only on the reasonable grounds for believing that that enlarging him on bail would 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.

08. Now, at the same time, relevant portion of 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, [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

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

.....(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..... ”

09. Cumulative reading of these two provisions makes it clear that the underlying principle when the case of any child in conflict with law is to be considered for grant of bail, the best



interest of the child is the keyword and considering the reformatory nature of the Act, gravity and nature of offences are immaterial for consideration of grant of bail to a child/juvenile in conflict with law. Therefore, I am of the opinion that the learned courts below rejected the prayer for bail of the CICL on completely vague grounds and on presumption about lack of family control over the CICL as there appears no such material on record.

10. Therefore, considering the interest of the child to be paramount and further considering the scope for his rehabilitation, this Court thinks it fit and proper that the petitioner/CICL 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 J.J.Board, Araria/concerned court, in connection with J.J.B. Case No. 102 of 2024 arising out of Araria (R.S.) P.S. Case No. 121 of 2024, subject to the following conditions:

- (i) One of the bailors will be the parents of the petitioner and other bailor will also be relative of the petitioner having no criminal antecedent and shall give undertaking that he/she shall keep proper



care and upkeep of the petitioner.

(ii) The petitioner shall remain present before the Board on each and every date of trial of the case fixed by the Board.

11. Accordingly, the Judgment dated 15.01.2025 passed by learned District and Additional Sessions Judge-1st-cum-Special Judge (Juvenile Court) Araria and Order dated 29.10.2024 passed by the learned Principal Magistrate, Juvenile Justice Board, Araria are set aside and hence, the present revision petition stands allowed.

12. Office is directed to return the Lower Court Record forthwith.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	03.12.2025
Transmission Date	03.12.2025

