

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.244 of 2024

Arising Out of PS. Case No.-264 Year-2023 Thana- SUPAUL District- Supaul

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Dilkhush Kumar @ Bhajan Kumar, S/o Brahamdev Mandal @ Brhamdeo Mandal R/o vill - Khakhai, ward no. 7, P.S. - Kishanpur, Dist. - Supaul. Through his Legal guardian Brahamdev Mandal @ Brhamdeo Mandal, aged about 59 Years, R/o vill - Khakhai, ward no .7, P.s - Kishanpur, distt. - supaul

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Suraj Kumar, Advocate Mr.Pramod Mishra, Advocate
For the Respondent/s	:	Mrs.Asha Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 04-02-2025 The instant revision is directed against an order passed in Cr. Appeal No. 48 of 2023 by the learned 1st Additional Sessions Judge-cum-Judge Children's Court rejecting the petitioner's application for bail.

2. It is not in dispute that the petitioner was a CICL on the date of commission of the offence under Sections 341, 323, 379, 302, and 34 of the IPC. The learned Court of Appeal considered further statements of the informant and other witnesses, post-mortem report of the victim, seizure list and confessional statement of co-accused persons. The learned Judge in the appeal also found that the CICL was not under protective control of his parents; the social investigation report



suggests that the petitioner was involved with known criminals and anti-social. Therefore, the prayer for bail of the petitioner was rejected, and he was sent to the Place of Safety.

3. I have heard the learned Advocate for the petitioner.

4. Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015, speaks of general principles to be followed in the administration of the Act. It provides that the Central Government, State Governments, Board, Committee, or other agencies, as the case may be, while implementing provisions of this Act, shall be guided by the fundamental principles of presumption of innocence, principle of best interest of the child, positive measures, principle of equality and non-discrimination, principle of repatriation and restoration, and the principle of fresh start, amongst other.

5. Section 12 of the said Act states the provision of bail to a person who is apparently a child alleged to be in conflict with the law. The general principle as enunciated in Section 12(1) is that even if a person who is apparently a child is detained for the commission of non-bailable offence, such person shall, notwithstanding anything contained in the Code of Criminal Procedure 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.

6. The above provision is, of course, limited by a proviso which says that such person shall not be so released if there appears to be reasonable grounds for believing that the release is likely to bring the person into association with any known criminal or expose the person to moral, physical, or physiological danger, or the persons' release would defeat the ends of justice.

7. I have already stated the grounds mention by the learned Court of Appeal about the reasons for rejection of bail.

8. It is needless to say that the statement of co-accused implicating the CICL cannot be accepted as a material against him for rejection of bail. Moreover, the Court of Appeal failed to consider the basic guideline enunciated in Section 3 of the said Act.

9. This Court on due consideration of Section 3 granted bail to a CICL in *Vijay Prasad Kushwaha v. State of Bihar & Anr.*, reported in **2023 4 PLJR 466**.

10. For the reasons stated above, this Court finds that the order passed by the Court of Appeal in Cr. Appeal No. 48 of 2023 cannot be sustained and is liable to be set aside.



11. Accordingly, the order passed in Cr. Appeal No. 48 of 2023 is set aside.

12. The instant Cr. Revision is allowed.

13. The petitioner is directed to be released on bail on furnishing bail bond of Rs. 20,000/- with two sureties of like amount to the satisfaction of the learned Juvenile Justice, Board, Supaul, in connection with Supaul P.S. Case No. 264 of 2023, one of whom must be one of the parents of the CICL having landed property, with the further condition that if on bail, petitioner will be under the supervision of the Probation Officer till the disposal of the criminal case pending before the Juvenile Justice Board.

(Bibek Chaudhuri, J)

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