

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.316 of 2025

Arising Out of PS. Case No.-74 Year-2024 Thana- BODHGAYA District- Gaya

Vikash Kumar Son of Ram Swarup Prasad @ Ramswaroop Prasad Through his natural guardian Ram Swarup Prasad @ Ramswaroop Prasad, Aged about 50 years (Male), S/O- Heera Man Mahato, R/O- Benipur 15, P.S.- Rupao @ Rupau, District - Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anish Kumar, Advocate

For the Respondent/s : Mr. Uday Chand Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 09-12-2025

Heard learned counsel for the petitioner and learned APP for the State.

2. The instant criminal revision petition has been filed seeking bail in connection with Bodhgaya P.S. Case No. 74 of 2024 registered for the offences under Sections 364(A)/34 of IPC and Sections 25(1-b)a, 26, 35 of the Arms Act and for setting aside the order dated 04.12.2024 passed by the learned Juvenile Justice Board, Gaya and judgment dated 06.02.2025 passed by learned Special Judge (Children Court), Gaya in Criminal Appeal No. 01 of 2025, whereby and whereunder the learned appellate court while confirming the order dated 04.12.2024 passed by learned Juvenile Justice Board, Gaya in



Misc. No. 490 of 2024, arising out of Bodhgaya P.S. Case No. 74 of 2024, refused to grant bail to the petitioner/child in conflict with law (for short 'CICL').

3. Briefly stated the facts of the case are that the minor son of the informant was kidnapped and the kidnappers demanded Rs. 40 lacs of ransom amount and threatened that in case the ransom amount was not paid, they would kill the son of the informant. The informant named a number of persons whom he suspected to be involved in kidnapping of his son and ransom demand. The name of the petitioner transpired during investigation for being involved in the alleged occurrence. The petitioner was declared juvenile vide order dated 25.11.2024 by the learned Juvenile Justice Board, Gaya and his age was assessed to be 16 years 03 months and 23 days on the date of occurrence. Thereafter, the prayer for bail was made before the learned Juvenile Justice Board. Vide order dated 04.12.2024, the learned Juvenile Justice Board dismissed the bail petition of the CICL. Subsequently, Criminal Appeal No. 01 of 2025 was filed before the court of learned Special Judge (Children Court), Gaya and vide judgment dated 06.02.2025, 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 he has committed no offence. The petitioner is neither named in the FIR nor he has any concern with the alleged kidnapping of the son of the informant. The petitioner used to live in Nawada for his study and on one occasion he sat with his friend in the Bolero vehicle, but he was not knowing about kidnapping of the son of the informant who was kept in the same vehicle. Learned counsel further submits that the learned subordinate courts refused the prayer for bail of the petitioner without appreciation of facts and circumstances and the law applicable. Learned counsel further submits that both the subordinate courts went by the Social Investigation Report and Social Background Report which showed that there was lack of supervision by the parents of the petitioner. Further, the planned manner of occurrence and possibility of recidivism of a CICL due to economic greed and lack of proper supervision and peer group were held to be against enlarging the petitioner on bail. However, the learned courts below wrongly held that granting privilege of bail was detrimental to moral, physical and mental health of the petitioner. But the courts below did not consider the well being



of a juvenile and did not exercise their jurisdiction vested upon it by the law. The courts did not consider that if the petitioner is kept in an observation home, he would be more likely to come into contact with persons of criminal nature, and that might adversely affect him physically and mentally, whereas the guardians of the petitioner are ready and willing to take care of the petitioner and protect his life and well being. The gravity and seriousness of offence cannot be a criterion to decline bail to the petitioner. There is nothing on record to show that if bail is granted to the petitioner, it would not be in the interest of justice. The orders have been passed without any cogent and reasonable ground and it was passed without application of judicial mind. The impugned orders go against the intend and objects of the Juvenile Justice (Care And Protection of Children) Act, 2015. The impugned orders suffer from voice of impropriety and illegality calling for interference by this Court. Learned counsel further submits that the CICL is in custody since 13.02.2024.

5. Learned APP vehemently contends that the CICL does not deserve to be enlarged on bail and the orders have been rightly passed by the learned courts below. Learned APP further submits that two courts below passed the orders after due



consideration of social investigation report and social background report, feeling that the parents did not take proper care of the CICL. When the petitioner was apprehended along with the kidnapped boy, recovery of illegal firearms and narcotics drugs was made. There was lack of positive and good environment for mental, sociological and physical development of the child in conflict with law.

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

7. 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 release of CICL on bail 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.

8. 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:-



“3. 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.

(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)..... ”

9. 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 the present case, the father of CICL has undertaken to take care of the well being of the child in conflict with law and as the reformation of a CICL could take place much better in the home surroundings rather than keeping the child in observation home in company of other unknown.

10. 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 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 bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Gaya/ concerned court in connection with Bodhgaya P.S. Case No. 74 of 2024, subject to the following conditions:

(i) The father 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.

11. Accordingly, the Judgment dated 06.02.2025 passed by the Special Judge (Children Court), Gaya and order dated 04.12.2024 passed by the learned Juvenile Justice Board,



Gaya are set aside and present revision petition is allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
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