

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.740 of 2025

Arising Out of PS. Case No.-264 Year-2024 Thana- BHELDI District- Saran

XXX, D/O Jitendra Mahto R/O Village- Chandpura, P.S- Bheldi, District- Saran at Chapra (Bihar) Under Guardianship of her Aunt (Mausi) Namley Guriya Devi, Female, aged about 32 years, W/O Santosh Prasad, R/O Village- Afaur Ke Purab Tola, P.S- Khaira, Distt.- Saran at Chapra (Bihar).

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Satrudhan Pandey, Son of late Harishankar Pandey, Resident of Village - Chandpura, Police Station - Bheldi, District - Saran at Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Rakesh Kumar, Advocate
For the State	:	Mr.Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 23-09-2025

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

2. The instant criminal revision petition has been filed against the judgment dated 20.06.2025 passed by learned First Additional Sessions Judge -cum- Children Court, Saran at Chapra in Criminal (Juvenile) Appeal No. 23 of 2025, whereby and whereunder the learned appellate court while upholding the order of learned Juvenile Justice Board passed in JJB No. 836 of 2024, arising out of Bheldi P.S. Case No. 264 of 2024 refused to grant bail to the petitioner, hereinafter child in conflict with law.



3. Learned counsel for the petitioner submits that the child in conflict with law was made accused in Bheldi P.S. Case No. 264 of 2024 registered for the offences under Sections 103(1) and 3(5) BNS along with her all family members. She has been declared juvenile by the learned Juvenile Justice Board vide order dated 22.11.2024 and her age was assessed on the date of occurrence to be 15 years 2 months 11 days. Learned counsel further submits that the petitioner is a student and has passed matriculation examination in the year 2024 and merely on suspicion she was falsely implicated in the above noted case. Both the courts, learned Juvenile Justice Board and the learned Children Court, did not consider the fact that there was no reasonable ground to believe that the release of the child in conflict with law would bring her to any moral, physical or psychological danger or her release would defeat the ends of justice. The courts below did not consider the provisions of the Juvenile Justice (Care & Protection of Children) Act (hereinafter as 'Juvenile Justice Act) and only othe ground that the family members of the child in conflict with law were not available to look after her, went on to reject the prayer for bail of the child in conflict with law. The social investigation report and social background report do not show any moral, physical



or psychological danger to the child in conflict with law in case of her release. There is no proof that she would get into association of any known or unknown criminals. Thus, both the courts below committed illegality in passing the impugned orders and the same needs to be set aside and the child in conflict with law needs to be released on bail as she is in custody since 17.08.2024 and she is having clean antecedent.

4. Learned APP opposes the submission made on behalf of the child in conflict with law.

5. Section 12 of the Juvenile Justice (Care & Protection of Children) Act reads as under:-

"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 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."

The prayer for bail of the child in conflict with law can be rejected only on the ground that her release would bring him into association of any known or unknown criminals or expose him to moral, physical or known or unknown criminals to expose her to moral, physical or psychological danger or that the release would defeat ends of justice.

6. From perusal of the impugned judgment of the learned Children Court, it appears that the child in conflict with law is literate. It has also been reported that she is friendly in nature. It has further been reported that she was in love with the deceased. It has also come to the light that the father of the child in conflict with law is a labourer. So from these reports it is not believable that the release of child in conflict with law would bring her in association with any known or unknown criminals or expose her to moral, physical and psychological danger or her release would defeat ends of justice. Further Section 3 (i), (iv) & (v) reads as under:-

***"3. General principles to be followed
in administration of Act.***

*The Central Government, the State
Governments, ¹[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.

(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."

Therefore, any decision of grant of bail to the child in conflict with law is to be taken keeping in mind the provisions of Section 12 read with Section 3 (i) (iv) (v) of the Juvenile Justice Act. It is duty of the court to ensure that any decision taken in respect of the child must be based on the primary consideration of best interest of the child. Further, there



is presumption of innocence of the child in conflict with law, considering the fact that law presumes no criminal intent up till attaining the age of 18 years. Apparently, these facts were not taken into consideration by the learned courts below. Further, it has been submitted on behalf of the child in conflict with law that her parents have been enlarged on bail and are available to take care of her if she is released on bail. Earlier the present criminal revision was filed submitting that the aunt (mausi) of the child in conflict with law was ready to take care of her. Since the parents of the child in conflict with law have been released from custody, they could furnish undertaking before the learned Juvenile Justice Board that they are ready and willing to take care of the child in conflict with law.

7. Having regard to the facts and circumstances of the case, I am of the opinion that the learned courts below have failed to follow the provisions of Juvenile Justice Act and therefore, the judgment dated 20.06.2025 and order dated 20.12.2024 are set aside.

8. Accordingly, the child in conflict with law is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Saran



at Chapra in connection with J.J.B. Case No. 836 of 2024, arising out of Bheldi P.S. Case No. 264 of 2024, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also 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 her in safe custody and produce her before the learned Juvenile Justice Board as and when required.

9. Accordingly, the present criminal revision petition stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
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