

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1058 of 2024

Arising Out of PS. Case No.-121 Year-2024 Thana- BHAGALPUR GRP CASE District-
Bhagalpur

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RK Son of Sitaram Paswan Village- Saitpura kulkuliya, Ps- kahalgaon,
District- Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Jha, Advocate
For the Respondent/s : Mr.Jharkhandi Upadhyay, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 09-09-2025

Heard learned counsel for the petitioner as well as
learned A.P.P. for the State.

2. 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 dated
14.11.2024 passed by learned Additional Sessions Judge-1-cum-
Special Judge (Children Court), Bhagalpur, in Criminal Appeal
No. 52 of 2024 arising out J.J.B. No. 356 of 2024 in connection
with Bhagalpur Rail P.S. Case No. 121 of 2024 for the offences
under Section 103(1), 303(2), 3/5 of the B.N.S. whereby and
whereunder the learned Additional Sessions Judge-1-cum-
Special Judge (Children Court), Bhagalpur dismissed the
criminal appeal of the petitioner and the order of learned



Juvenile Justice Board, Bhagalpur was upheld.

The present revision is also preferred against order dated 24.09.2024 passed by the learned Juvenile Justice Board, Bhagalpur in Bhagalpur Rail P.S. Case No. 121 of 2024 wherein the prayer for regular bail of the petitioner was rejected.

3. As per prosecution case, the minor son of the informant went outside with the petitioner and another co-accused along with his brother-in-law after he returned from plying electric auto. The son-in-law of the informant returned but not the son of the informant. Subsequently, the son of the informant told his sister on mobile phone that he has been staying with the petitioner and the co-accused and would return after some time. In the morning, dead body of the son of the informant was found lying near the railway station. The silver chain and mobile phone of the son of the informant was missing and there were signs of assault on his body. The informant showed his suspicion that the petitioner and another juvenile co-accused committed murder of his son.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in this case merely on suspicion and he is innocent. There is delay in lodging the FIR which has not been explained as dead body of the son of the



informant was found on 20.07.2024 at about 06:00 hrs. and the FIR was lodged on 21.07.2024 at 00:30 hrs. Only allegation against the petitioner and co-accused is that they were last seen with the son of the informant. But the petitioner and the deceased were in same profession and of same age and were knowing each other for quite long time. They were having no dispute or enmity with each other and this fact is apparent from the FIR. The police extracted the confessional statement of the petitioner applying extra legal means but the petitioner has not confessed of his guilt. Rather the confessional statement shows the death of the son of the informant was accidental.

5. The learned counsel further submits that the learned Juvenile Justice Board, Bhagalpur assessed the age of the petitioner on the date of occurrence to be 16 years 05 months and 21 days. The prayer for bail of the petitioner was rejected by the learned Juvenile Justice Board, Bhagalpur vide order dated 24.09.2024. Thereafter, the petitioner moved before the Court of learned Additional Sessions Judge-I-cum-Special Judge (Children Court), Bhagalpur by filing Criminal Appeal No. 52 of 2024 and the learned Appellate Court dismissed the criminal appeal of the petitioner vide judgment dated 14.11.2024 and upheld the order of learned Juvenile Justice Board, Bhagalpur.



6. In the meantime, the charge sheet has been submitted on 17.10.2021 under Section 103(1), 303(2) and 3/5 of the B.N.S. against the petitioner and the co-accused. Learned counsel further submits that the petitioner is in custody since 22.07.2024.

7. Learned counsel further submits that the impugned judgment of the learned appellate court dated 14.11.2024 as well as the order dated 24.09.2024 passed by the learned Juvenile Justice Board are not sustainable and have been passed in a mechanical manner. Both the courts below have failed to consider that the petitioner has not been involved in any anti-social activity and has no association with anti-social elements. The petitioner is a person having no criminal antecedent. Learned counsel further submits that though the learned Juvenile Justice Board and learned Appellate Court have mentioned one of the grounds for rejection of prayer for bail that there might be danger to the life of the petitioner if enlarged on bail but there is no material to justify such inference by the courts below. Further the learned Appellate Court held that release of appellant on bail was likely to bring the appellant into association with the criminals and expose the appellant to moral, physical or psychological danger and the release would defeat



the ends of justice. Again there is no material to justify such finding. Learned counsel for the petitioner also submits that the father of the petitioner has given an undertaking that he will take care of his son and will protect the 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 petitioner may be enlarged on bail.

8. Learned A.P.P. for the State opposes the submission made on behalf of the learned counsel for the petitioner and submits that there is allegation against the petitioner that he was involved in the murder of the son of the informant and there are strong circumstantial evidences against him.

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

10. 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.

11. Further relevant portion of Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides for the general principles of care and protection of



children and are extracted herein below:-

“Section 3 : General principles to be followed in administration of Act.

(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.

(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.”

12. In the light of the aforesaid provisions, the case of any child in conflict with law for grant of bail is to be considered. Underlying principle is the best interest of the child and gravity and nature of offences are immaterial for consideration of grant of bail to a child/juvenile in conflict with law. Proviso to Section 12 makes certain exceptions for refusal of bail to a child in conflict with law. One such exception is release will bring him in association with any known criminal and another exception is exposure of the child to moral, physical and psychological danger.

13. Now, from the facts discussed hereinbefore, I am unable to agree with the findings recorded by either the learned



Appellate Court or by the learned Juvenile Justice Board, Bhagalpur. There is no material to show that the petitioner will come in association with some known criminals or there would be moral, physical or psychological danger to the well being of the petitioner.

14. Therefore, in the light of the aforesaid facts and circumstances, I am of the considered opinion that both the courts failed in their duty to properly assess the situation and passed the orders which could not be sustained and orders have been passed without consideration of law applicable in the facts of the case.

15. Therefore, the instant revision is allowed and petitioner/juvenile in conflict with law shall be released on bail, on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Thousand Only) each with two sureties of the like amount each to the satisfaction of learned J.J.Board, Bhagalpur/concerned court, in connection with J.J.B. Case No. 356 of 2024 arising out of Bhagalpur P.S. Case No. 121 of 2024, subject to the following conditions:

- (i) One of the bailors will be the father of the petitioner and other bailor will also be relative of the petitioner having no



criminal antecedent.

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

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

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	-
CAV DATE	-
Uploading Date	10.09.2025
Transmission Date	10.09.2025

