

02.12.2025
Court No.13
Item No.21
pk

CRA 468 of 2018
Aftauddin Sk. @ Rahamat Sk.
Vs.
The State of West Bengal

Mr. Souvik Mitter,
Mr. Sandip Chakraborty,
Mr. Kaustav Das

.... For the Appellant.

Mr. Debasish Roy, Ld. P. P.
Ms. Zareen N. Khan

.... For the State.

1. This Court has recorded the detailed reasons in its order dated 20.11.2025 as to why the enquiry report of the trial court as regards the age of the applicant, namely, Aftauddin Sk., at the time of commission of offence, cannot be accepted

2. This Court finds absolutely no reason for the trial court to have rejected the evidence of the headmaster who has proved both the school leaving certificate and the admission register of the Jangipur Al-Amin Shishu Shiksha Niketan. The ossification test is only conducted when there is no satisfactory evidence as regards birth certificate or school leaving certificate. Even in the ossification test ordered by the trial court has confirmed that the appellant was possible between the age of 15 and 17 at the time of commission of offence.

3. In terms of the dicta of the Supreme Court laid down, the lower age possible as certified by the

ossification test is taken to consideration. As already stated herein above, there was no need for trial court to order an ossification test or constitute medical board therefor in the light of uncontroverted evidence oral and documentary of the headmaster of the school where the appellant had studied. The evidence of the headmaster and the documents proved that the appellant was entered into the school in the year 1994-1995 at the age of 7. This would demonstrate the appellant was possible at the age of 15 at the time of offence was committed.

4. In view of the above, the sentence of the appellant by the trial court is ex facie improper. It appears that he has already served 7 years of incarceration whereas a convicted juvenile can at best be imposed 3 years of sentence.

5. The appellant shall be set free forthwith without any condition unless he is required by the State in connection with any other proceedings.

6. CRA 468 of 2018 has become infructuous and is disposed of.

7. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)

