IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL REVISION APPLICATION (FOR REGULAR BAIL) NO. 645 of 2025

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PRASHANT JAYRAM PRAJAPATI THROUGH JAYRAM RAMNARAYAN PRAJAPATI
Versus
STATE OF GUJARAT

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Appearance:
MR. RAAJEN D JADHAV(10026) for the Applicant(s) No. 1
MR UTKARSH SHARMA, APP for the Respondent(s) No. 1

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CORAM:**HONOURABLE MR.JUSTICE P. M. RAVAL**

Date : 22/12/2025

ORAL ORDER

1. Leave to amend the prayer clause.

2. *Rule*, returnable forthwith. Learned Additional Public Prosecutor waives service for the respondent – State.

3. This application is filed by the juvenile in conflict with law through his father as a guardian under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act) challenging the order dated 23.09.2024 passed in Criminal Appeal No. 718 of 2024 by the learned 2nd Additional Sessions Judge, Surat,

rejecting the said appeal which was filed challenging the order rejecting bail application.

3.1 At this juncture, it is pertinent to note here that a perusal of the appeal memo of Criminal Appeal No. 718 of 2024 reveals that the said appeal was preferred against the order dated 21.08.2024 passed by the learned Principal Magistrate, JJ Board in Criminal Misc. Application No. 12859 of 2024 for bail after Charge-sheet, however, the order dated 23.09.2024 passed thereon, impugned herein, gives reference of earlier order of the learned Principal Magistrate, JJ Board passed on 09.07.2024 in Criminal Misc. Application No. 10368 of 2024 seeking bail before Charge-sheet and thereby, confirming the said order instead of order dated 21.08.2024. Thus, it appears that some typographical error crept in the said order. Be that as it may.

4. Facts in nutshell of the case on hand are that an FIR being C.R. (Part-B) No. 11210005240699 of 2024 was lodged with Athwalines Police Station, Surat City against the present applicant along with a co-accused for the offence punishable under Sections 8(C), 22(C) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) for alleged possession for sell of 100.60 gram of mephedrone drug worth Rs.10,06,000/- and was arrested on 01.06.2024. The applicant – juvenile in conflict with law had preferred the aforesaid application for regular bail before the

learned Magistrate, JJ Board, which came to be rejected against which, appeal also came to be rejected, as aforesaid and hence, this revision.

5. Heard, learned advocate for the applicant and the learned Additional Public Prosecutor for the respondent – State.

5.1 The learned advocate for the applicant submitted that the applicant, who is a juvenile in conflict with law, has no direct nexus with the crime in question and he is not involved in the crime in question. He submitted that the applicant has not committed any overt act and so far as the allegation of supplying the alleged contraband drugs is concerned, it is against the other co-accused. He further submitted that even otherwise, investigation in the crime in question is over and Charge-sheet is also filed and hence, there is no question of any tampering or hampering with the evidence.

5.2 The learned advocate for the applicant further submits that even as per the Social Investigation Report (SIR) of the Probation Officer, it is on account of wrongful company that the alleged incident appears to have occurred otherwise his conduct is good and recently, he has also passed Standard 12 examination.

5.3 It is further submitted that the father of the applicant – juvenile in conflict with law has also undertaken to take due care of the

applicant and see to it that in future such an incident does not recur.

5.4 The learned advocate for the applicant submitted that Section 12 of the JJ Act mandates despite anything contained in the Criminal Procedure Code or under any law for the time being in force, juvenile 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. He further submitted that juvenile is entitled for bail and only if it appears that there is a reasonable ground for believing that his release is likely to bring that person in association with any known criminal, or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, he may not be released. Accordingly, it is urged that the applicant, a juvenile in conflict with law may be released on bail.

6. As against this, learned Additional Public Prosecutor submitted that both the Courts have referred to the facts of the case and the role attributed to the applicant and declined bail to the applicant - juvenile in conflict with law, more particularly, considering the nature and gravity of offence, wherein contraband worth Rs.10,06,000/- is seized. Accordingly, it is urged that present application may not be entertained.

7. Heard, the learned advocate for the respective parties and perused the material produced on record.

7.1 At the outset, it would be apt to have a glance at Section 3 of the JJ Act, which provides for general principles to be followed in administration of Act as under:

> *3. General principles to be followed in administration of Act.—The Central Government, the State Governments, the Board, and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:—*
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> ***(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.***
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> *(ii) Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.*
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> *(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.*
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> *(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.*
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> *(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) Positive measures: All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.

(viii) Principle of non-stigmatising semantics: Adversarial or accusatory words are not to be used in the processes pertaining to a child.

(ix) Principle of non-waiver of rights: No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non-exercise of a fundamental right shall not amount to waiver.

(x) Principle of equality and non-discrimination: There shall be no discrimination against a child on any grounds including sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and treatment shall be provided to every child.

(xi) Principle of right to privacy and confidentiality: Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.

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

(xv) Principle of diversion: Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.

(xvi) Principles of natural justice: Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.

7.2 The Court has perused the order of the JJ Board under Section 15 of the JJ Act wherein, Preliminary Assessment of the JJ Board suggests that considering the mental and physical condition of the juvenile in conflict with law and considering his ability to understand the things, in view of gravity of offence, which is under the NDPS Act, wherein, minimum sentence prescribed for is 10 years with fine, it was ordered to try the case before the juvenile Court. It is apt to note here that sub-rule 10A(3) (of the JJ Model Rules, 2022) provides that while making preliminary assessment, the child shall be presumed to be innocent unless proved otherwise.

7.3 The Court has also perused the SIR of the Probation Officer, forwarded in pursuance to the order dated 20.11.2025 passed in this application, which is the same SIR dated 28.06.2024 which was

produced before the JJ Board as well as the Appellate Court, which reveals that the juvenile in conflict law has recently passed the 12th Standard examination and is ready to settle in life. Further, it appears from the same that there are no antecedents against his family members and it is on account of bad company, such an eventuality appears to have occurred. Further, the father of the juvenile in conflict in law has undertaken to take care of the applicant and see to it that such an incident does not recur. The Probation Officer has also recorded physical and mental condition of the juvenile in conflict with law.

7.4 The Apex Court, in the decision in ***Juvenile in conflict with Law v. State of Rajasthan, reported in 2024 SCC OnLine SC 5297***, has observed as under:

> *"6. From the phraseology used in sub-section 1 of Section 12, a juvenile in conflict with law has to be necessarily released on bail with or without surety or placed under supervision of a probation officer or under the care of any fit person unless proviso is applicable."*

7.5 In the case on hand also, there is nothing on record to suggest that the case falls under the proviso to Section 12(1) of the JJ Act.

8. In aforesaid view of the matter, considering the Social Investigation Report submitted by the Probation Officer and physical and mental condition as well as the family condition of the juvenile

in conflict with law, as narrated therein, General Principles as laid down in the JJ Act, referred to herein above, as well as the fact that now Charge-sheet in the case is filed and the fact that the father of the juvenile in conflict with law has undertaken to take good care of the juvenile applicant, last but not the least, as there is nothing on record to show that proviso to Section 12(1) of the JJ Act is applicable on the case on hand, the Court is inclined to exercise discretion in favour of the present juvenile applicant.

9. Resultantly, this revision application is allowed. The impugned orders, referred to herein above, are quashed and set aside. The juvenile applicant is ordered to be released on bail in connection with the above-referred FIR on surety of his father with bail bond of Rs.10,000/-.

9.1 It is directed that the Probation Officer shall monitor the conduct of the juvenile in conflict with law and shall quarterly submit the report before the appellate Court till completion of the trial. Moreover, if the Probation Officer considers any necessity of sending the juvenile for any behavior modification then necessary therapy and psychiatric support be provided to the juvenile in conflict with law.

9.2 The father of the juvenile to ensure that the juvenile will not fall into bad company.

10. Rule is made absolute to the aforesaid extent. **Direct service** is permitted.

[P. M. Raval, J.]

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Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: HIREN VIRENDRABHAI MER(HC00351), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 22/12/2025 12:04:12