



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 81 OF 2025

Risu s/o Hiralal Yadav,
Age : Minor, Occ; Nil,
Under guardian of father Hiralal Bhura Yadav,
Age : 48 years, Occ.; Business,
R/o; Semri, Asawar, Ghazipur,
Utter Pradesh.

...APPLICANT

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Parner Police Station,
Tq. Parner, Dist. Ahmednagar.

...RESPONDENT

...
Advocate for Applicant : Mr. Rahul R. Karpe a/w Mr.Saurabh R. Nikot
APP for Respondent/State : Ms. Vaishali S. Chaudhari
...

CORAM : ABHAY J. MANTRI, J.

DATE : 03.10.2025.

ORAL JUDGMENT :

1. The applicant, being aggrieved by the order, dated 21.01.2025, passed by the learned Additional Sessions Judge, Ahmednagar, below Exh. 13, in Sessions Case No. 41 of 2023, thereby rejecting the application of the applicant to transfer his case to the Juvenile Justice Board, Ahmednagar, has referred this Revision Application.

2. Heard the learned Advocate for the applicant and APP for the respondent. Perused the impugned order and the record. I have also gone through the provisions of the Juvenile Justice (Care and Protection of Children Act, 2015 (for short the "*Jvenile Act*").

FACTUAL MATRICS:-

3. The applicant, relying upon date of birth mentioned in the birth certificate and the School Living Certificate, has filed an application before the learned Additional Sessions Judge, Ahmednagar, contending that, at the time of incident, the applicant was 16 years and 08 months old, and therefore, prayed for transfer of his case to the Juvenile Justice Board, Ahmednagar/Ahilyanagar. (for Short,- '*J.J.B.*') The learned Additional Sessions Judge, after hearing both parties and considering the material on record, has held that the birth certificate of the applicant was obtained after the occurrence of the incident, i.e. applied and registered on 07.11.2022 for the first time, that is, after the occurrence of the incident on 27.09.2022, and therefore discarded the same.

4. After hearing the learned Advocate for the applicant and the learned APP, and considering Section 8 (2) read with Section 94 (2) and (3) of the Juvenile Justice this Court on 08.05.2025 has passed a detailed order and thereby directed to constitute of a Board by the Dean of the Government Medical College and Hospital, Chhatrapati Sambhajinagar, to ascertain the age of the juvenile in conflict with law. Pursuant to the said order, the Medical Board was constituted by following the mandate under the provisions of Section 8 (2) read with

Section 94 (2) (3) of the Juvenile Act, to ascertain the age of the applicant.

5. Pursuant to the said order, the Medical board examined the applicant (on 26.05.2025) and issued a medical certificate on 29.05.2025, wherein it was observed that “***According to the Clinical and Radiological findings, the patient’s/applicant’s age is shown between 19 to 20 years.***” Therefore, in an order dated 03.07.2025, this Court observed that at the time of commission of the offence, the applicant would be approximately 16 years old. Therefore, as per the mandate under Section 15 and 18 (3) of the Juvenile Act, the applicant was referred to the J.J.B., to assess his mental and physical capacity to understand the consequences of the offence. Accordingly, the applicant was produced before the J.J.B.

6. In light of the said order, the primary assessment examination report was submitted before the Court on 24.07.2025. The parties were given liberty to peruse it so that a further course of action could be decided in accordance with the law.

7. On bare perusal of the Medical Board report, it is evident that at the time of the incident, the applicant was below the age of 18 years old. Likewise, the J.J.B. submitted a “***Preliminary assessment report***” wherein some material observations were recorded in paragraphs 14 and 15. I would like to reproduce paragraphs Nos. 14

and 15 of the said report, which reads as follows :

“14. During interaction and questioning, it appears that the C.C.L. did not fully comprehend the legal, moral and social consequences of his actions. His level of understanding was immature and indicative of adolescent impulsivity. The offence appears to have occurred under peer pressure, lack of guidance and socio-economic vulnerability. There is no evidence of a habitual or hardened criminal mindset. The C.C.L. has shown genuine remorse and willingness for reform. From interaction with the Investigating Officer, it appears that the C.C.L. comes from a distressed socio-economic background, lacks parental supervision and has no prior criminal history. There is sufficient material available on record to show that the C.C.L. had not attained sufficient maturity to understand the situation and the result of his act.

15. In view of the above reasons, it is proper and justifiable to conduct the inquiry into the said offence by the Board itself instead of transferring the matter to the Children’s Court for trial. Hence, the report about the preliminary assessment of the C.C.L. Risu Hiralal Yadav, conducted by this Board.”

8. A plain reading of the report shows that “*there is sufficient material available on record to show that the child in conflict with law had not attained sufficient maturity to understand the situation and result of his act.*” Therefore, for the said reasons, the J.J.B., after preliminary assessment of the applicant u/s 15 of the Juvenile Act, on its satisfaction with the preliminary assessment of the applicant as contemplated under section 19 of the Juvenile Act, observed that “*it is proper and justifiable to conduct an inquiry into the said offence by the Board itself instead of*

transferring the matter to the Children's Court for trial".

9. At this stage, I would like to reproduce Section 15 (2) and Section 18 (3) of the Juvenile Justice Act.

"Section 15 (2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in a summons case under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14.

Section 18 (3) : Where the Board, after preliminary assessment under section 15, pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children's Court having jurisdiction to try such offences."

10. On careful reading of those sections, it is apparent that the J.J.B., after preliminary assessment under Section 15 of the Child, is empowered to pass an order as to who should deal with the matter of the child in conflict with the law. Accordingly, the J.J.B. may pass an order that the case of the child be transferred to the Children's Court, which has jurisdiction to try such offences. Undisputedly, in the case at hand, the J.J.B. has observed that *"the applicant has not attained a sufficient maturity to understand the situation and result of his act. For the*

above reasons, it indicates that it would be proper and justiciable to conduct an inquiry into the said offence by the board itself.” The said report itself denotes that the J.J.B. can order that an inquiry be conducted by itself, instead of transferring it to the Children’s Court, which has jurisdiction to try the offence.

11. Learned APP raised concern that, as per Section 19 of the Juvenile Act, the J.J.B. has to submit its preliminary assessment report before the Children's Court, who will take a decision as to whether there is need of the trial of the child in conflict with law by the Children’s Court or it should be sent to the J.J. B. in that regard.

12. It is pertinent to note that on instruction, the learned Advocate for the applicant submitted that there is no designated Court that exists as a Children’s Court, but where such Courts have not been designated, the Court of Sessions having jurisdiction to try the offences under this Act, as a Children’s Court. In the case at hand, undisputedly, the application was filed before the learned Additional Sessions Judge for transferring the applicant to the J.J. B.; however, the learned Additional Sessions Judge has discarded the birth certificate and refused to transfer the applicant to the J.J. B. for further procedure. In fact, it was incumbent upon the Additional Sessions Judge to follow the procedure laid down in Section 15 (2) and 18 (3) of the Juvenile Act. However, the Additional Sessions Judge has not considered the said fact

in its proper perspective and erred in rejecting the application filed by the applicant to transfer him to the J.J.B.

13. It is pertinent to note that, while dealing with the issue as to whether the applicant was a minor or major at the time of the incident, it would be appropriate to follow the procedure as contemplated under Section 15 (2) and 18 (3) of the Juvenile Act and call the report from the concerned authority. Pursuant to the report submitted by the J.J.B., it would be appropriate to transfer the matter to the J.J.B., who is competent to deal with the matter, instead of transferring the trial to the Additional Sessions Judge/Children's Court for further procedure.

14. To sum up the above discussion, I am of the opinion that, the order passed by the learned Additional Sessions Judge is liable to be set aside, as the learned Additional Sessions Judge failed to follow the procedure as prescribed under Section 15 (2) and 18 (3) of the Juvenile Act and erred in ignoring the said provisions, while dealing with the issue "as to whether the applicant was a minor or major at the time of incident", and therefore, the said order cannot be sustained in the eyes of law. Consequently, the said order is quashed and set aside. The matter is transferred to the Juvenile Justice Board, Ahmednagar/Ahilyanagar, for further inquiry or for further procedure in that regard as laid down in the Juvenile Act.

15. Accordingly, the application Exh. 13 is allowed.
16. Needless to clarify, if during the proceedings before the J.J. B., the Board is of the opinion that the matter is required to be tried by the Children's Court, then the J.J. B. is at liberty to transfer the matter/trial to the Children's Court.
17. It is made clear that it is open for the respondent State to challenge the report of the Juvenile Justice Board, as contemplated under Section 101 of the Juvenile Justice Act.
18. Accordingly, inform the order to the learned Juvenile Justice Board, and the Additional Sessions Judge, Ahmednagar/Ahilyanagar.
19. The Registry is directed to forward the Original "*Medical certificate dated 29.05.2025*", issued by the Medical Board, and the "*Preliminary assessment report dated 24.07.2025*" submitted by the J.J.B. to this court, to the J.J.B. by keeping its copies on record.

(ABHAY J. MANTRI, J.)