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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 7776/2025, CRL.M.A. 32559/2025 & CRL.M.A. 32560/2025

ABDUL KARIM THROUGH HIS MOTHER/NATURAL
GUARDIAN

.....Petitioner

Through: Mr. S.D. Singh, Mr. Mala Prasad, Ms.
Shweta Sinha, Mr. Meenu Singh and
Mr. Sidharth Singh, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlwat, APP for State
along with SI Gulshan Kumar, PS
Cyber Cell/Crime Branch.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
04.11.2025

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1. The Petitioner, asserting that he is a child in conflict with law, through his mother assails order dated 30th August, 2025 passed in Bail Matters No. 1815/2025 arising out of FIR No. 138/2025, insofar as it directs an ossification test for determination of age.
2. The Petitioner further challenges order dated 15th October, 2025 in Misc. Crl. No. 1118/2025, whereby the Sessions Court declined to entertain his application seeking modification of the earlier order and refused to consider additional material tendered in support of his claim of juvenility.
3. The Petitioner's case is that he is a "child" within the meaning of



Section 2(13) of the Juvenile Justice (Care and Protection of Children) Act, 2015¹. He claims date of birth to be 28th March, 2008, and avers that he was 17 years and 3 months old when the bail application was filed. In support, he relies upon (i) his Aadhaar card and (ii) a marksheet issued by the National Institute of Open Schooling.

4. The Sessions Court examined the documents tendered but found that none satisfied the statutory hierarchy for age-determination. Proceeding under Rule 12 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, an inquiry was undertaken. It emerged that the Applicant had studied till Class II at Paradise School, Saraimeer, Azamgarh; in Classes III to IX at God's Grace School, Jamia Nagar, Okhla, New Delhi; and thereafter enrolled with the National Institute of Open Schooling (NIOS) for Class X, which he did not clear.

5. In response to the Court's queries, all three institutions clarified that their records contained no documentary proof of the Petitioner's birth.

6. The Petitioner also produced a birth certificate. Its authenticity was, however, denied by both the Chief Medical Officer, Police Hospital, Faizabad, and the Registrar, Nagar Nigam, Ayodhya (Faizabad), who confirmed that certificate no. B-2021:9-91410-000057 dated 24th May, 2021 was neither issued by them nor traceable in their registers. Consequent upon this revelation, offences under Sections 338, 336(3), and 340(2) of the Bharatiya Nyaya Sanhita, 2023 were added.

7. Against this backdrop, the Court revisited the two documents pressed into service by the Petitioner, his Aadhaar card and the NIOS mark-sheet, and recorded that neither falls within the Rule 12 hierarchy and made the

¹ "JJ Act"



following observations: -

8. Since, the Rule 12 of the 2016 Rules mandates hierarchical approach for age determination of a juvenile, requiring the Court, Board or Committee to rely on firstly, matriculation or equivalent certificate, secondary, date of birth certificate from the first attended school (excluding play schools), or, thirdly, birth certificate by a corporation, municipal authority, or panchayat. Only in the absence of these documents, a medical Board's Opinion may be sought. If an exact assessment is not possible, the authority may, for recorded reasons, grant the benefit of one year margin on lower side. The evidence obtained as per this hierarchy is deemed conclusive proof of age.

In this case, the applicant/ accused has produced only two documents i.e. Adhaar Card and School Mark-sheet of National Institute of Open Schooling (NIOS) in support of his age but none of the document is of any help to the applicant / accused as none of the documents is falling in the criteria of Rule 12 of the 2016 Rules as discussed above and cannot be relied.

9. Moreover, during the course of inquiry regarding the age of the applicant / accused, IO has inquired from three different entities and alleged the date of birth i.e. 23.03.2008 of the applicant/ accused which is found to be under the shadow of doubts.

As per the admission in UKG of the applicant/accused in April 2013, the date is not clarified by the school as no proof of date of birth is submitted by the parents of the applicant.

So far as the issuance of Adhaar Card dated 12.03.2015 is concerned also raises the doubt of obtaining the UID by submitting the wrong fact.

Further, the date of admission in class 3 in 29.04.2016 is concerned, it has been surfaced out that a written application submitted by the father of the applicant/accused who is also co-accused in the present FIR with excuse of no-providing of Transfer Certificate nor any other relevant proof.

Interestingly, the date of birth certificate provided by the applicant / accused bearing No. B-2021 :9-91410-000057 dated 24-May-2021 allegedly issued by the CMO, Police Hospital, Faizabad found to be forged and consequently, the other Sections 338/336(3)/340(2) BNS were also invoked on 04.08.2025.

10. So far as the case relied upon by Ld. Counsel for the applicant, / accused hold correct proposition of law but respectfully distinguished from the facts and circumstances of present case, hence, no help to applicant.

11. Therefore, considering the aforesaid circumstances when there is a cloud of doubts regarding the age of the applicant / accused, this Court has left with no option except to get the ossification test of the applicant I accused done. Therefore, IO is directed to get the ossification test done in the AIIMS within a week from today and file the report on the next date of hearing.

The Medical Superintendent AIIMS is directed to constitute a medical board to conduct the Ossification Test/ any other latest test for determining the age of the applicant I accused Abdul Karim.



Copy of order be sent to IO as well as to the Medical Superintendent

AIIMS, Hospital, Delhi

12. *The applicant/accused Abdul Karim is directed to join the Ossification Test and to cooperate with the IO.*
13. *No coercive action be taken till the next date of hearing.*
14. *Copydasti.*
15. *Put up **for further arguments on the bail application on 09.09.2025.***

[emphasis supplied]

8. The Sessions Court held that a medical assessment was unavoidable and directed the Investigating Officer to secure, within one week, an ossification/appropriate age-estimation test by a duly constituted Medical Board at AIIMS. Thereafter, the Petitioner moved for modification of the 30th August, 2025 order, annexing additional material such as report cards, a school leaving certificate, the admission form, and allied records from both Paradise School and God's Grace School. By order dated 15th October, 2025, the Sessions Court declined to entertain the request, holding that the prayer did not disclose any clerical or arithmetical error amenable to correction and that Section 362 of the Code of Criminal Procedure, 1973² barred a substantive review or alteration of its earlier order in the manner sought.

9. Counsel for the Petitioner submits that the Sessions Court ought to have considered the additional documents furnished with the subsequent application, and that there was no legal bar to examining the same. He argues that the direction for an ossification test overlooks the statutory hierarchy for age determination embodied in Section 94 of the JJ Act, which requires the Court or the Board to first examine matriculation or equivalent

² "Cr.P.C."



certificates, and in their absence, the date of birth certificate from the school first attended, and failing that, the birth certificate issued by a municipal authority or panchayat. Only where such records are unavailable or found unreliable may a medical opinion be sought as a measure of last resort. Secondly, he argues that the additional school records (report cards, school leaving certificate, admission form and allied materials from the first attended school) go to the heart of the Section 94 hierarchy and should have been evaluated on merits. He submits that the bar in Section 362 Cr.P.C. cannot be used to shut out relevant material in an on-going age-determination inquiry; at best, Section 362 prevents review of a concluded order, but does not disable the court from receiving and assessing further documents that directly engage a statutory inquiry which, by design, must seek the best primary proof available.

Analysis

10. The Court has considered the aforesaid submissions. The applicant asserts he studied at Paradise Convent School (Azamgarh) from LKG (2011–2012), UKG (2012–2013; repeated 2013–2014), Class I (2014–2015) and Class II (2015–2016), and was then issued a transfer certificate by Swami Dayanand Primary School (to which Paradise was attached) on 26th April, 2016 for shifting to Delhi. He relies on (i) report cards for 2011–2016 and (ii) the school leaving/transfer certificate (countersigned by a gazetted authority), each recording his date of birth as 28th March, 2008. The Petitioner emphasises that, after completing early schooling in Azamgarh, he was admitted to God’s Grace School (recognised), Jamia Nagar, New Delhi. For this admission, his parents furnished the school leaving certificate and report cards from Paradise Convent School, along with a fresh admission



form. The admission form records his date of birth as 28th March, 2008 and reflects Paradise Convent School as the previously attended institution. It is further averred that the Petitioner studied at God's Grace School up to Class VIII. Reliance is also placed on admission form dated 29th April, 2016 and school leaving certificate dated 11th August, 2022, which also mentions his date of birth as 28th March, 2008. He contends these constitute reliable proof of age and that the absence of a municipal birth certificate at the time of first admission should not defeat the evidentiary value of the school records under the scheme of the Act and the Rules framed thereunder.

11. Section 94 of the JJ Act embeds a clear hierarchy: (i) matriculation or equivalent certificate from the concerned Board; failing that, (ii) date-of-birth certificate from the first attended recognised school (other than a play-school), proved from the admission register; failing that, (iii) birth certificate issued by a corporation/municipality/panchayat; only then (iv) medical opinion. Courts have consistently treated this sequence as mandatory in approach and conclusive in effect when a qualifying document at a higher rung is available.³

12. Tested against that standard, the present documentary trail does not satisfy rungs (i)-(iii):

(a) There is no matriculation/equivalent certificate from any examination board; a NIOS mark-sheet where Class X is not cleared is not a "matriculation certificate".

(b) For rung (ii), the statute requires a date-of-birth certificate (or an extract of the admission register) from the first attended recognised school and, in substance, a contemporaneous entry made on the strength of a birth



record. On inquiry, both Paradise Convent School (the first attended recognised school from Class II) and God's Grace School have stated that no proof of birth was furnished at admission. The report cards, the countersigned transfer certificate, and the later admission/leaving papers are downstream records that merely reproduce a declared date; they are not, by themselves, the statutory "date-of-birth certificate from the first attended school" supported by the admission register and a birth record.

(c) For rung (iii), the municipal birth certificate produced has been *prima facie* disowned by both the Chief Medical Officer and the Registrar, Nagar Nigam, Ayodhya (Faizabad), and penal provisions have been invoked on that footing. In these circumstances, the only municipal record in the hierarchy is under a cloud.

13. Once the top three rungs are either unavailable or rendered unreliable, recourse to medical age-estimation is both permissible and appropriate under Section 94. The Sessions Court's direction for ossification/age-estimation thus accords with the statutory scheme and with precedent.

14. As regards order dated 15th October, 2025, it must be observed that Section 362 Cr.P.C. bars a criminal court from altering or reviewing a signed order save to correct clerical or arithmetical errors. However, Section 94 of the JJ Act envisages an inquiry into a plea of juvenility, a fact-finding exercise in which the court sequentially tests the available material until it reaches a final conclusion on age. In the present case, the Sessions Court has merely directed an ossification test after finding the documentary record insufficient and it has not yet taken a final view on the Petitioner's age. The inquiry under Section 94 thus remains in progress, and any genuinely

³ Ashwani Kumar Saxena v. State of M.P., (2012) 9 SCC 750



qualifying documents that may be produced before the trial court prior to its final determination can be considered as part of that ongoing inquiry itself. No recall or modification of the earlier order would be necessary, since the direction for medical assessment forms an intermediate step within the same statutory process rather than a concluded finding.

15. The compelling factor for this Court, in rejecting the Petitioner's challenge, is the fact that the birth certificate produced by the Petitioner, is *prima facie* a false document. In these circumstances, the court below cannot be faulted for declining to base age-determination on a documentary trail that is either non-conforming under Section 94 or clouded by allegations of fabrication. Where primary documentary proof is absent or unreliable, medical assessment becomes necessary and lawful. As held in ***Abhishek v. State***,⁴ where conflicting materials are placed on record and the authenticity of documentary proof is in doubt, a direction to conduct ossification or age-estimation is the proper course. The Court in that case noted that the trial court had yet to reach a conclusion on juvenility, and therefore the medical assessment was considered appropriate to aid that determination.

16. The Supreme Court in ***Manoj v. State of Haryana***,⁵ underscored that a plea of juvenility, being a claim to statutory protection, must be made *bona fide* and supported by credible material, and that a claimant who relies on doubtful or fabricated records cannot invoke the Act as a shield to defeat justice. Those observations, though made in the context of a concluded inquiry, support the reasoning here.

17. In view of the above, the Court is of the opinion that the impugned

⁴ 2020 SCC OnLine Del 2477; also see *Ramesh Maity v State of West Bengal* 2013 SCC OnLine Cal 19604



orders disclose no procedural irregularity or misdirection of law. The Sessions Court has acted within the framework of Section 94 by ordering medical age estimation only after finding the documentary evidence doubtful and inconclusive. The inquiry into juvenility remains pending before it, and the Petitioner will have full opportunity to rely on any admissible material during that process.

18. For these reasons, this Court declines to exercise inherent jurisdiction under Section 528 BNSS to interdict the age-estimation process through medical opinion. The ossification/age-estimation test shall proceed as directed and its outcome will remain subject to the Trial Court's evaluation.

19. With the aforesaid observations, the present petition, along with all pending applications, stands disposed of.

SANJEEV NARULA, J

NOVEMBER 4, 2025/MK

⁵ (2022) 6 SCC 187