

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 82 of 2025
In
CRIMINAL APPEAL (SJ) No.4872 of 2024

Arising Out of PS. Case No.-57 Year-2024 Thana- MANIHARI District- Katihar

XXXX

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Yogesh Singh S/o- Late Shiv Pujan Singh Village- Charwaha Vidhyalay
Manihari Ps- Manihari Dist- Katihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh, Adv.
For the State : Mr.Syed Ashfaque Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
Date : 10-02-2026

Heard learned counsel for the petitioner as well as
learned APP for the State.

02. From perusal of record, it transpires that in the
revision petition, the identity details of the Juvenile is being
disclosed, which is against the statutory provisions prescribed
under Section 74 of the Juvenile Justice (Care and Protection of
Children) Act, 2015 which mandates protection of disclosure of
identity of the juvenile in conflict with law. Therefore, the
identity of the petitioner is being referred to in the cause title as
XXXX.

03. Registry while uploading the order on the website

shall also ensure that the cause title is reflected in similar manner.

04. The present petition has been filed for setting aside the Judgment/Order dated 05.09.2024 passed by the learned Additional District and Sessions Judge-1st-cum-Children Court, Katihar passed in Cr. Appeal No. 10/2024 whereby and whereunder the order dated 06.07.2025 passed by the learned JJ Board, Katihar rejecting the prayer for bail by the petitioner in GR No. 1284 of 2024 in connection with Manihari P.S. Case No. 57 of 2024 for the offences under Section 302 and 201 of the IPC has been affirmed thereby the prayer for bail of the petitioner/child in conflict with law was rejected by both the courts.

05. Briefly stated facts of the case is that the petitioner took away 1 year and 8 months old daughter of the informant to his house and committed rape with her. Thereafter the coaccused persons, in order to destroy the evidence, throttled the victim girl and threw her dead body in a bamboo clump.

06. Learned counsel for the petitioner submits that the matter was investigated by the police but no evidence of rape was found and charge sheet has been submitted under Section 302/201 of the IPC only against the petitioner while other

coaccused persons were not sent up for facing trial. Subsequently cognizance has been taken by the learned Additional Sessions Judge, POCSO court, Katihar. Learned counsel further submits that petitioner was declared to be a Child in Conflict with Law (in short 'CICL').

07. Learned counsel for the petitioner submits that the learned Subordinate Courts did not consider the facts of the case and law applicable in the case of the petitioner for grant of bail. The petitioner is aged only about ten years and no substantive material has come up on record to show the involvement of the petitioner in the alleged occurrence. The allegation of rape was not proved. The parties are neighbours and there is enmity between them. Except for confessional statement of the petitioner there is no material against him. When the probation officer has been making inquiry, in the social investigation report it has come that the CICL stated that he was assaulted and was forced to confess. In the second statement, it has come that he only throttled the victim girl. Therefore there is contradictory statement even in the social investigation report. Learned counsel further submits that both the courts went upon the allegation of severity of offences but under Section 12 of the Juvenile Justice (Care and Protection of Children) Act (in short

‘JJ Act’) seriousness of allegation cannot be ground for rejection of prayer for bail of the CICL. The prayer for bail could be rejected only on the ground that release of the person would likely to bring CICL 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. None of the ingredients are present in the present case. The father of the petitioner undertakes to take care of him and properly guide him so that the CICL is reformed and rehabilitated in the society. Learned counsel further submits that the nothing has come against the release of the CICL in the social investigation report or the social background report of the probation officer. Learned counsel further submits that the petitioner is in custody since 11.03.2024.

08. Learned APP for the State vehemently oppose the submission made on behalf of the petitioner. Learned APP submits that there is serious allegation against the petitioner that he killed a girl aged about 1 year and 8 months after committing rape with her. Learned APP further submits that considering the mental status of the CICL he could not be allowed to roam free in public.

09. I have given my thoughtful consideration to the

rival submission of the parties.

10. At the outset, it is made clear that the gravity and seriousness of the offences is immaterial for grant of bail to the CICL as mandated under Section 12 of the JJ Act which 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 bailable 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.”.

11. Therefore bail could be denied to a CICL only on the ground that release would bring him in association with known criminals or it will cause moral, physical and psychological danger to the child or it would defeat the ends of justice. Further in Section 3 of the JJ Act there are some salutary provisions governing the well being of a CICL and foremost of them is the presumption of innocence. Thereafter Section 3(iv) of the JJ Act provides for the principle of best interest and for 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. Section 3(xii) of the JJ Act makes it abundantly clear that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. Section 3(xiii) of the JJ Act provides for Principle of repatriation and restoration which reads as follows:

“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.”

12. Cumulative reading of Section 12 of the JJ Act and Section 3 of the JJ Act shows the under current flowing in the JJ Act is regarding reformation of child. The CICL is not to be punished rather it would be for the betterment of the society that any such child is allowed to join the main stream and is not stigmatized. In the present case, no material has come up on record to show that there was chance of petitioner falling in bad company or there was moral, physical or psychological danger to the CICL or his release would defeat the ends of justice and considering the interest of the child to be of paramount importance and further considering the need for his rehabilitation for which the best place is the family of such child, I am of the considered opinion that the petitioner/juvenile in conflict with law be released on bail and hence is ordered to be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned J.J.Board,

Katihar/concerned court, in connection with GR No. 1284 of 2024 in connection with Manihari P.S. Case No. 57 of 2024, subject to the following conditions:

- (i) One of the bailors will be the parents of the petitioner and other bailor will also be relative of the petitioner having no criminal antecedent and giving undertaking that he/she shall keep proper care and upkeep of the appellant.*
- (ii) The petitioner shall remain present before the Board on each and every date of trial of the case fixed by the Board and shall fully co-operate in the pending enquiry/trial.*

11. Accordingly, the judgment dated 05.09.2024 passed by learned Additional Sessions Judge-I-cum-Children Court, Katihar and order dated 06.07.2024 passed by the learned Juvenile Justice Board, Katihar are set aside and present revision petition is allowed.

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

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	11.02.2026
Transmission Date	11.02.2026