

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.216 of 2025

Arising Out of PS. Case No.-244 Year-2024 Thana- MAHARAJGANJ District- Siwan

Ashish Patel Son of Munmun Patel @ Ramashankar Patel @ Rama Shankar Prasad Resident of vill- Deoria PS- Maharajganj Dist- Siwan Bihar through his legal guardian (Father) namely Rama Shankar Prasad @ Rama Shankar patel Son of Baijnath Prasad R/o- H. No. 121, Kalibari, Ps- Tilakmarg, Dist- New Delhi Son of Baijnath Prasad R/o- H No. 121 Kalibari, PS- Tilakmarg, Dist- New Delhi

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sudhir Kumar Singh son of Lal Babu singh Resident of village- Ram kundipur, Ram bharos Toll, PS- Darauda, Dist- Siwan

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Ms. Kumari Anupam, Advocate
For the State	:	Mr. Rana Randhir Singh, APP
For the Informant/O.P. No. 2:	:	Mr. Satya Prakash Parasar, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 06-01-2026

Heard learned senior counsel for the petitioner and learned APP for the State as well as learned counsel appearing on behalf of the informant/opposite party no. 2.

2. The present petition has been filed under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter 'J.J. Act'), against the order dated 13.01.2025 passed by learned Children Court -cum- Additional Sessions Judge-I, Siwan in Criminal Appeal No. 30



of 2024, which has affirmed the order of the learned Juvenile Justice Board rejecting the prayer for bail of the petitioner dated 10.09.2024 passed in G.R. No. 3600 of 2024, J.E. No. 402 of 2024, arising out of Maharajganj P.S. Case No. 244 of 2024 registered for the offences under Sections 302/34, 120B of the Indian Penal Code and Section 27 of the Arms Act.

3. Briefly stated, the facts of the case are that the opposite party no. 2 is the informant of Maharajganj P.S. Case No. 244 of 2024 registered for the offences under Sections 302/34, 120B of the Indian Penal Code and Section 27 of the Arms Act against the petitioner, a child in conflict with law ('CICL'), and others for the murder of his son. The informant/opposite party no. 2 alleged that the co-accused persons shot at his son, who subsequently died while being taken to hospital. The CICL moved before the learned Juvenile Justice Board seeking bail and his prayer for bail was rejected vide order dated 10.09.2024 by learned Juvenile Justice Board. Subsequently, the appeal filed by the CICL also came to be dismissed by learned Children Court -cum- Additional Sessions Judge-I, Siwan vide order dated 13.01.2025. Against these orders, the CICL has approached this Court.

4. Learned senior counsel appearing on behalf of



the petitioner/CICL submits that both the courts below did not consider the facts and circumstances of the case and did not take into consideration the Social Investigation Report/Social Background Report of the child in conflict with law. On merits, there is no allegation against the petitioner for opening fire for killing the son of the informant. This fact has come during investigation only due to presence of this petitioner at a tea stall where the occurrence took place. This fact has also been taken note of by the Probation Officer, who has reported about the presence of the petitioner at the tea shop along with his friend under column 6 of the report, wherein it has been mentioned that co-accused was having some dispute with the deceased and who opened fire. The CICL has not idea that such happening would take place. Though in Social Investigation Report/Social Background Report it has been mentioned that the economic condition of the family of the CICL is good and the CICL is having no criminal antecedent and he is studying in Classs X and there has been no other circumstance which might show the CICL was in danger of falling in bad company or coming to harm the physical or psychological, still the Probation Officer mentioned that CICL should be kept in supervision of Probation Officer or fit person as the court thinks fit to protect the best



interest of child. Learned senior counsel further submits that the parents of the child are the best person to protect the interest of the child and reformation and rehabilitation of the CICL is of paramount importance and in this case, there is no material to suggest that the release of CICL would be detrimental of his well-being or society at large. The CICL is in custody since 17.06.2024 which has been causing serious psychological and mental distress to CICL and is affecting his right of education and normal development. Learned senior counsel further submits that it has been held by the Hon'ble Supreme Court that the juvenile should not be detained in custody unless there are compelling circumstances to deny the bail. There is no material to substantiate the reasoning of the learned courts below for denial of the bail to CICL. Considering the aforesaid facts and circumstances, the CICL needs to be released on bail and the parents of the CICL undertake to take care of him and not allowed to fall in bad company.

5. Learned APP as well as learned counsel appearing on behalf of informant/opposite party no. 2 vehemently oppose the contention made on behalf of the petitioner. Learned counsel for the opposite party no. 2 submits that the age of the CICL was assessed to be 16 years and



considering the seriousness of offence it would come under heinous offence triable by the Children Court and the procedure followed by the courts below is not proper. Learned counsel further submits that the CICL is accused in a case registered under Section 302 of the Indian Penal Code and one child was shot dead in the occurrence and the name of the petitioner transpired in the said case for being involved .

6. I have given my thoughtful consideration to the rival submission of the parties and perused the record. This Court is mainly concerned with the issue whether the CICL deserves to be enlarged on bail considering his best interest. From perusal of the orders impugned, it appears what weighed in the mind of courts below was that the CICL was present with his peer group when one of his associates shot dead another child and there was danger of the child suffering physical or psychological harm if enlarged on bail and the case of CICL is covered under the proviso to Section 12 of the Juvenile Justice Act.

7. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 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 available 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[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.”

Therefore, only if there appears to be reasonable ground for believing that the release of child in conflict with law would bring him in association with the criminals or expose him to moral physical or psychological danger or his release would defeat the ends of justice, the bail shall be denied and reasons for the denial would be recorded.

8. Perusal of record shows in Social Investigation Report/Social Background Report, it has nowhere been mentioned about the child falling in company of bad element or coming to harm, mentally and physically and reasons for the same. Only a bland assertion has been made by the courts below for denial of bail to the CICL. There is no other material on record to justify its reason. While considering the



prayer for bail of CICL, the paramount consideration is to protect best interest of the child. Allowing the child to continue in incarceration would not be helpful in his reformation or rehabilitation. It also appears the child was studying and his study has got obstructed due to continuous custody.

9. Now at the same time, relevant provisions of Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015, inter alia, provides for the general principles of care and protection of children and are extracted herein below:-

“The Central Government, the State Governments, [the Board, the Committee, or] other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:---

(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.

(ii) Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.

(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.

(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.

(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).....

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

(ix).....

(x).....

(xi).....

(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 reunited 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).....

(xv).....

(xvi).....”

10. If the child is allowed to continue in custody, it could not be said that his interest would be protected. Moreover, the parents of the child in conflict with law are ready to take care of him and they are also ready to furnish undertaking in this regard. Hence, I am of the considered opinion that the child should be released on bail subject to certain conditions.

11. So far as the contention of learned counsel for the opposite party no. 2 about child being aged more than 16 years and the offence coming into category of heinous offence, the opposite party no. 2 is at liberty to take up this issue before the learned court below. But at this stage, such contention, on the ground of technicality, could not be allowed to come in the



way of grant of bail to the child in conflict with law.

12. Considering the interest of the petitioner to be of paramount importance and further finding that keeping the child in observation home may not serve the purpose of his reformation and rehabilitation, this Court is of the view that for the best interest of the child, he could be released on bail on submission of affidavit of due undertaking by the parents of the petitioner/CICL for taking good care of the child in conflict with law and for protection, both physical and mental, of the child before the learned Juvenile Justice Board. In the light of discussion made hereinbefore, it is ordered that the petitioner/CICL shall be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Siwan/concerned court in connection with G.R. No. 3600 of 2024, J.E. No. 402 of 2024, arising out of Maharajganj P.S. Case No. 244 of 2024, subject to the following conditions:

(i) The parents of the child in conflict with law shall furnish an undertaking before the learned Juvenile Justice Board that they will take care of the child in conflict with law



and will keep him in safe custody and produce him before the learned Juvenile Justice Board as and when required.

13. Accordingly, the order dated 13.01.2025 passed by learned Children Court -cum- Additional Sessions Judge-I, Siwan and order dated 10.09.2024 passed by the learned Juvenile Justice Board, Siwan are set aside and the present revision petition is allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
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