

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.484 of 2025

Arising Out of PS. Case No.-44 Year-2024 Thana- MAHILA P.S. District- Araria

Md. Anwar @ Anwar S/O Md. Kalam @ Kalam@ Abdul Kalam Resident of village-Diyari (Rampur Kodarkatti), Police Station and District-Araria through his natural guardian, who is his father, namely, Md. Kalam @ Kalam son of late Magrim.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Rahmina Praween D/O- Harun R/O Vill- Diayri, Ward No.07, P.S. and District- Araria

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Mukesh Kumar Rana, Adv.
For the State	:	Mr. Kumar Ranjit Ranjan, APP
For the O.P. No. 2	:	Mr. Kundan Kumar Singh, Adv.

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 06-01-2026

Heard learned counsel for the petitioner, learned APP for the State and learned counsel for the opposite party no. 2.

02. The instant revision petition has been filed for setting aside the Judgment/Order dated 04.03.2025 passed in Criminal Appeal No. 06 of 2025 by the learned Additional Sessions Judge-I-cum-Special Judge (Children Court) Araria whereby and whereunder the learned Special Judge (Children Court) Araria dismissed the appeal of the petitioner and also to set aside the order dated 13.01.2025 passed by the Juvenile Justice Board, Araria rejecting the prayer of the petitioner for bail in connection with J.J.B. Case No.117 of 2024 arising out



of Araria Mahila PS Case No. 44 of 2024 for the offences under Section 341, 376, 313, 417/34 of the IPC and Section 6 of the POCSO Act.

03. Briefly stated facts of the case leading to the institution of the present petition is that the opposite party no. 2 lodged a case vide Araria Mahila P.S. Case No. 44 of 2024 under Section 341, 376, 313, 417/34 of the IPC and Section 6 of the POCSO Act with allegation that the while she was alone in her house, this petitioner forced upon her by gagging her mouth and later on gave her allurements of marriage. By giving this inducement of marriage, he kept on committing rape with her. When she became pregnant, the petitioner gave her some medication and her pregnancy was aborted by taking her to a doctor. The petitioner refused to marry the opposite party no. 2 and in *panchayati* the petitioner and his family members refused to solemnize marriage with the opposite party no. 2. The petitioner/child in conflict with law (in short 'CICL') was taken in custody on 17.10.2024. The CICL moved before the learned Juvenile Justice Board, Araria for grant of bail but his prayer was rejected and his petition for bail was dismissed vide order dated 13.01.2025. The CICL preferred an appeal which also came to be dismissed vide order dated 04.03.2025 passed by the



learned Additional Sessions Judge-I-cum Special Judge (Children's Court) Araria. The CICL approached this Court impugning the aforesaid two orders.

04. Learned counsel for the petitioner submits that the petitioner is falsely implicated in this case due to ill motive of the victim. The petitioner was declared juvenile vide order dated 30.10.2024 by the JJB Araria and the age of the petitioner was 12 years 06 months and 21 days on the date of occurrence and has got no criminal antecedent. The age of the victim is about 18 years. Learned counsel further submits that the orders of the learned Courts below are bad in the eye of law as well as on facts. The Courts have not considered about false implication of the CICL and the fact that he has been deprived of care and protection of his family by placing him in custody. There is no possibility of petitioner doing any harm to the victim or any of the witnesses. The social investigation report and social background report do not make out any case to keep the CICL in custody. It has only been mentioned that there was lack of discipline in the house and father of the CICL is a labourer. It has also been mentioned that the CICL has studied up to Class V only. His friends are also not literate. However the same report also mentions about his clean antecedent and normal mental



condition. Further the parents of the CICL are ready to take care of him and for his proper physical and mental development, he needs to be enlarged on bail as his continuous custody would be detrimental to his mental and physical well being. There is no chance of CICL falling in bad company and his family members are also not having any criminal antecedent. Therefore the petitioner ought to have been released on bail after setting aside the impugned orders as both the Courts below passed erroneous orders.

05. Learned counsel appearing on behalf of the opposite party no. 2 vehemently contends that the offence of the CICL is very serious. He committed rape with a girl and the victim has also stated the fact in her statement recorded under Section 183 of the BNSS. Learned counsel further submits that in the social investigation report and social background report, it has also come that there was general lack of discipline in the house of the CICL. He was having a peer group of illiterate friends. The CICL comes from a very poor social and economic background and there was lack of education and values of a modal society which might influence the CICL. If the CICL is enlarged on bail, he might commit same offence and might also influence the trial.



06. I have given my thoughtful consideration to the rival submission of the parties.

07. 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 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 home¹[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.”

08. The aforesaid provision makes it clear that a CICL could be denied bail only on the ground that on release, the said child would come in contact with criminal elements and there was danger to the moral, physical and psychological well being of the CICL or would defeat the ends of justice. If these grounds are not present, the bail could no be denied to a CICL.

09. Now, at the same time, relevant portion 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

(vi)...

(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. Cumulative reading of these two provisions show the CICL could be released on bail unless the fact comes on record that there was chance of such child coming in contact with a known criminal or enlarging such child on bail might endanger his moral, physical or psychological well being. Further the courts being *parens patriae* are supposed to look into for protection of best interest of the child. All such steps are to be taken by the Courts for reformation and rehabilitation of a child in conflict with law.

11. In the facts of the present case, no doubt the alleged offence is very serious but the bail to a child in conflict with law could be denied only under specific circumstances as mentioned hereinbefore. Otherwise the bail is a rule and jail is an exception in case of CICL as well. The CICL has remained in custody since 17.10.2024 and now his parents are ready and willing to take care of him and to protect his best interest so that he does not fall in bad company or get involved in any other offence.

12. Perusal of the impugned order show the bail was denied on the ground that release of the child in conflict with



law would be against the best interest of the child and the possibility of child suffering mental, physical or psychological danger could not be ruled out. Further from the record, I do not find any material to infer that the child would come in contact with some known criminal or if released he will suffer mental, physical or psychological harm. For reformatory measures and rehabilitation, the best place could be the house of the child and the parents of the child in conflict with law have also undertaken to take care of the best interest of the child.

13. Therefore, in the light of the aforesaid discussion, I am of the considered opinion that the child in conflict with law could be released on bail and accordingly petitioner/CICL 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, Araria /concerned court, in connection with J.J.B. Case No.117 of 2024 arising out of Araria Mahila PS Case No. 44 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 shall give



*undertaking that he/she shall keep proper
care and upkeep of the petitioner.*

*(ii) The petitioner shall remain present
before the Board on each and every date of
trial of the case fixed by the Board.*

14. Accordingly, the Judgment/Order dated 04.03.2025
passed by learned Additional Sessions Judge-I-cum-Special
Judge (Children Court) Araria and order dated 13.01.2025
passed by the Juvenile Justice Board, Araria are set aside and
hence, the present revision petition stands allowed.

15. Office is directed to return the lower court record
forthwith.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	08.01.2026
Transmission Date	08.01.2026

