

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.43996 of 2026

Arising Out of PS. Case No.-109 Year-2026 Thana- MADHUBAN District- East Champaran

1. Adarsh Kumar Son of Sri Jitendera Kumar @ Jitendra Singh @ Jitendra Kumar Singh Resident of village -Tengharhi PS -Siwaipatti District -Muzaffarpur through its Father and Natural Guardian Namely Jitendra Kumar @ Jitendra Singh @ Jitendra Kumar singh
2. Akash Kumar Son of Sri Jitendra Kumar @ Jitendra Singh @ Jitendra Kumar Singh Resident of village -Tengharhi PS -Siwaipatti District -Muzaffarpur through its Father and Natural Guardian Namely Jitendra Kumar @ Jitendra Singh @ Jitendra Kumar singh

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr. Purushottam Kumar, Adv.
For the Opposite Party/s	:	Dr. Mrityunjaya Kr. Gautam, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 08-07-2026 Heard learned Advocate for the petitioners and
learned Advocate for the State.

2. The petitioners, who are children in conflict with law (hereinafter referred to as "the CICLs"), apprehend their arrest in connection with Madhuban P.S. Case No. 109 of 2026 registered for the offences punishable under Sections 126(2), 109(1), 117(2), 118(2) and 3(5) of the BNS, 2023.

3. Before advertng to the merits of the present application, learned Advocate appearing for the CICLs, submitted that the issue regarding the maintainability of an



application for pre-arrest bail at the instance of a child in conflict with law by invoking the jurisdiction of this Court under Section 482 of the BNSS, 2023, is no longer *res integra*, inasmuch as the same has been settled by various Benches of this Court. It is, therefore, submitted that there is no legal impediment in entertaining the present application.

4. The prosecution case, in brief, is that on the alleged date and time of occurrence, when the informant was returning after appearing in his matriculation examination, the present CICLs along with 10–11 other unknown boys allegedly surrounded and brutally assaulted him by means of an iron rod, belt and knife, causing serious injuries. After receiving medical treatment, the present First Information Report came to be instituted.

5. Learned Advocate for the CICLs submitted that CICL No. 1 is aged about 15 years, whereas CICL No. 2 is aged about 16 years. In support of the said contention, the certificates/mark sheets of Class-X issued by the Central Board of Secondary Examination of both the CICLs have been brought on record. It is further submitted that although the alleged occurrence took place on 07.03.2026, the FIR was instituted only on 10.03.2026 and was received by the Court on



13.03.2026. The delay in lodging the FIR, therefore, gives rise to the possibility of deliberation and embellishment in the prosecution story.

6. Learned Advocate for the CICLs, further contended that even if the allegations made in the FIR are accepted in their entirety, there is no specific allegation attributing the grievous injury sustained by the informant to either of the present CICLs. The injury report reveals that all the injuries were caused by hard and blunt substance, thereby rendering the allegation regarding assault by knife *prima facie* doubtful. Although one out of the four injuries has been found to be grievous in nature, the same has admittedly not been attributed to either of the CICLs. It is next contended that while rejecting the prayer for anticipatory bail, the learned Sessions Judge failed to call for or consider the Social Background Report and the Social Investigation Report, which are relevant for adjudication of the matter. Reliance has been placed upon the order dated 12.05.2025 passed by a Coordinate Bench of this Court in Criminal Miscellaneous No. 56295 of 2024, wherein it has been held that an application for anticipatory bail at the instance of a child in conflict with law is maintainable and, in the absence of the Social Background Report and the Social Investigation



Report, the matter was remitted for fresh consideration. Reliance has also been placed upon the order passed in the case of Himanshu Kumar @ Munna in Criminal Miscellaneous No. 80721 of 2024.

7. *Per contra*, learned Advocate for the State vehemently opposed the bail application and submitted that the CICLs ought to approach the Juvenile Justice Board and place their respective cases before the competent authority. It is further submitted that, notwithstanding the age of the CICLs as reflected from the documents produced by them, they had actively participated in the commission of the alleged offence and caused grievous injuries to the informant.

8. Having considered the rival submissions advanced by the learned Advocates for the respective parties and upon perusal of the materials available on record, this Court finds that while considering the prayer for anticipatory bail, the learned District and Additional Sessions Judge/Children Court neither called for nor considered the Social Background Report and the Social Investigation Report, and rejected the prayer solely on account of the seriousness and gravity of the allegations.

9. In the aforesaid circumstances, this Court is of the considered opinion that the matter requires fresh consideration.



Accordingly, the matter is remanded to the learned District and Additional Sessions Judge/Children Court concerned, who shall, after obtaining the Social Background Report as contemplated under [Rules 8(1), 8(5)] (Form-I) and Social Investigation Report prescribed in Form-VI of J.J. Rules 2016, along with the report of psychologist and after taking into consideration the preliminary assessment made by the Juvenile Justice Board under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, will decide the prayer for anticipatory bail afresh, strictly in accordance with law, at the earliest.

10. Till such consideration by the learned District and Additional Sessions Judge/Children Court, interim protection from the apprehension of arrest shall be granted to the CICLs (petitioners).

11. It is made clear that while deciding the matter, the learned District and Additional Sessions Judge/Children Court will not be prejudiced in any manner by the order of this Court and will decide the anticipatory bail on the basis of the aforesaid reports, keeping in view the relevant provisions of law.

12. The CICLs shall fully cooperate in the enquiry and proceedings before the Juvenile Justice Board and/or the learned District and Additional Sessions Judge/Children Court,



as the case may be.

13. With the aforesaid observations and directions, the
present application stands disposed of.

(Harish Kumar, J)

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