

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.725 of 2025

Arising Out of PS. Case No.-14 Year-2024 Thana- KHUTAUNA District- Madhubani

XXX S/o Jeebachh Yadav @ Jivach Yadav Being Minor represented through under guardian ship of his mother namely Ramkumari Devi, W/o Jeebachh Yadav @ Jivach Yadav, R/o Vill - Godiyari, Barhampur, P.S.- Phulparas, Distt- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Brajesh Kumar S/o Hari Mohan Kamat R/o village - Charrapatti, Ward no. 13, P.S.- Khatauna, District - Madhubani

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Dharendra Kumar, Adv Mr. Amrit Anunay, Advocate
For the Respondent/s	:	Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 02-02-2026 Heard learned counsel for the petitioner and learned APP for the State. Though the service has been declared upon the opposite party no. 2, there is no representation on his behalf.

2. The instant criminal revision petition has been filed for setting aside the judgment/order dated 26.09.2024 passed by the learned Additional Sessions Judge-cum-Special Judge (Children Court, Madhubani in Juvenile Appeal No. 19 of 2024, whereby and whereunder the learned appellate court dismissed the appeal and upheld the order dated 11.06.2024 passed by learned Juvenile Justice Board, Madhubani in Khutauna P.S. Case No. 14 of 2024 registered under Section 394 of the Indian



Penal Code and Section 27 of the Arms Act, by which the prayer for grant of bail to the petitioner/child in conflict with law (for short 'CICL') has been rejected.

3. Briefly stated, the facts of the case are that four miscreants riding two motorcycles surrounded the motorcycle of the informant/opposite party no. 2 and started snatching his bag and motorcycle. When the opposite party no. 2 opposed, he was assaulted with the butt of the gun. The miscreants snatched the motorcycle of the opposite party no. 2 and fled away. The name of the petitioner, who is the CICL, transpired during investigation for being involved in the alleged occurrence. The CICL moved before the learned Juvenile Justice Board, Madhubani for grant of bail but his prayer was rejected vide order dated 11.06.2024. The CICL preferred an appeal which also came to be dismissed vide judgment/order dated 26.09.2024 passed by the learned Additional Sessions Judge-cum Special Judge (Children Court), Madhubani. The CICL approached this Court against the aforesaid two orders.

4. Learned counsel for the petitioner submits that the petitioner/CICL submits that on the basis of school certificate, the age of petitioner was assessed to be 17 years 06 months and 15 days on the day of occurrence and, as such, he was declared



juvenile by the learned J.J. Board, Madhubani. Learned counsel further submits that the name of the petitioner transpired in this case on the basis of confessional statement of co-accused Pankaj Kumar and the petitioner/CICL was apprehended in Khutauna P.S. Case No. 19 of 2024 and thereafter, remanded in the present case on 23.01.2024 and since then the petitioner is in observation home. Learned counsel further submits that nothing incriminating has been recovered from the person or possession of this petitioner and no test identification parade has ever been done. Co-accused Ranjay Kumar Yadav has been granted bail by a Co-ordinate Bench of this Court vide order dated 04.09.2024 passed in Criminal Misc. No. 62199 of 2024. Similarly, co-accused Raushan Kumar has been granted bail by the same Co-ordinate Bench vide order dated 04.10.2024 passed in Criminal Misc. No. 68306 of 2024. Learned counsel further submits that even the co-accused Pankaj Kumar, who has named this petitioner, has been granted bail by the Co-ordinate Bench vide order dated 20.12.2024 passed in Criminal Misc. No. 83123 of 2024. Learned counsel further submits the bail of the petitioner has been denied on the basis of Social Investigation Report that the petitioner is not in control of her mother and there was absence of moral and ethical value in his house and



there was possibility of involvement of the petitioner in anti-social activities after his release. The mother of the petitioner is ready to give undertaking to take proper care of the petitioner after release on bail and shall not allow him to fall into bad company and would try to bring change in his behaviour, if required. Learned counsel further submits that keeping the petitioner in observation home would not serve any useful purpose and would not help in his proper development considering his age and it is not in the best interest of the petitioner who is CICL. Thus, the learned counsel submits that the order dated 11.06.2024 of the learned J. J. Board, Madhubani as well as order dated 26.09.2024 of the learned Additional Sessions Judge-cum-Special Judge (Children Court), Madhubani may be set aside.

5. Learned APP for the State opposes the submission made on behalf of the petitioner. Learned APP submits that the petitioner is having antecedent of two cases for serious offences and he appears to be a habitual offender. Learned APP further submits that the learned appellate court has taken note of the social investigation report wherein it has been mentioned that there was no discipline in the house of the CICL and his father remains outside at Kolkata in connection with his job. It has also



been found that the CICL is in association with criminals and has been participating in organized crime and the same is against the safety of the CICL.

6. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

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

8. 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 not be denied to a CICL. In the present case, the bail has been denied on the ground that the CICL was in association with known criminals and has participated in organized crime. But the best interests and welfare of a child are of paramount importance.

9. 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,1[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 shall 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. From the record, it does not transpire how the social investigation report of the CICL gave adversarial findings. The CICL is in observation home since 23.01.2024 and his best interest is paramount importance. For reformatory measures and rehabilitation and to protect the best interest of the



child, the best place could be the house of the child and keeping such CICL in observation home would frustrate the provision of Juvenile Justice (Care and Protection of Children) Act, 2015. Therefore, the conclusions arrived at by the learned Juvenile Justice Board, Madhubani as well as learned Additional Sessions Judge-cum-Special Judge, Children Court, Madhubani are not sustainable and hence, the impugned judgment/order the order dated 11.06.2024 passed by learned Juvenile Justice Board, Madhubani in Khutauna P.S. Case No. 14 of 2024 and the judgment/order dated 26.09.2024 passed by the learned Additional Sessions Judge-cum-Special Judge (Children Court), Madhubani in Juvenile Appeal No. 19 of 2024 and, are hereby set aside.

12. Let the petitioner, a child in conflict with law, shall be released on bail, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Madhubani/concerned court in connection with Khutauna P.S. Case No. 14 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.

13. Accordingly, the present revision petition is allowed.

(Arun Kumar Jha, J)

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