

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.797 of 2025

Arising Out of PS. Case No.-784 Year-2024 Thana- KADAMKUAN District- Patna

XXX (through his father Ajay Kumar) S/o- Late Mahendra Prasad Village-
Park Road Ps- Kadamkuan Dist- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Soni Kumari W/o- Arvind Rai R/o- Daldali Road Near Rampyari
Dharmshala Ps- Kadamkuan Dist- Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Chakraborty, Advocate
For the State : Mr. Prem Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 22-06-2026

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

2. Though *Vakalatnama* has been filed on behalf of
opposite party no. 2, there is no representation on behalf of
opposite party no. 2.

3. The instant criminal revision petition has been filed
for setting aside the judgment/order dated 17.05.2025 passed by
the learned Additional Sessions Judge-I-cum-Special Judge
Children Court, Patna in Criminal Appeal No. 37 of 2025,
whereby and whereunder the learned appellate court dismissed
the appeal and upheld the order dated 05.03.2025 passed by
learned Juvenile Justice Board, Patna in JJB Case No. 1119 of



2024, arising out of Kadamkuan P.S. Case No. 784 of 2024 registered under Section 65(2) of Bharatiya Nyaya Sanhita, 2023 and Section 4/6 of POCSO Act, by which the prayer for grant of bail to the petitioner/child in conflict with law (for short 'CICL') has been rejected.

4. Briefly stated, the facts of the case are that on the basis of written report of informant/opposite party no. 2, Kadamkuan P.S. Case No. 784 of 2024 registered under Section 65(2) of BNS and Section 4/6 of POCSO Act. It is alleged in the written report that the petitioner (CICL) committed rape with the minor daughter of the informant. The age of petitioner was assessed to be 14 years 09 months and 05 days on the date of occurrence and, as such, he was declared juvenile by the learned J.J. Board, Patna vide order dated 15.01.2025. The CICL moved before the learned Juvenile Justice Board, Patna for grant of bail but his prayer was rejected vide order dated 05.03.2025. Being aggrieved and dissatisfied with the order dated 05.03.2025, the CICL preferred an appeal before the learned Additional Sessions Judge-I-cum-Special Judge, Children Court, Patna, which also came to be dismissed vide judgment/order dated 17.05.2025 passed by the learned appellate court. Now, being aggrieved by the order dated 17.05.2025 passed by the learned appellate



court, the CICL approached this Court by filing the instant criminal revision petition.

5. Learned counsel appearing on behalf of the petitioner/CICL submits that the informant has made contradictory statements in the FIR and in the restatement recorded by the police and she changed the place of occurrence from 'park' to 'park road'. Learned counsel further submits that the learned JJ Board as well as the learned appellate court have not appreciated the Social Investigation Report in its right perspective and passed the orders in casual manner without considering the provision of law. For a CICL, grant of bail is to be considered in positive manner. Only in case of the existence of conditions prescribed in the proviso of Section 12 of the JJ Act, bail could be refused. Reliance placed on the Social Investigation Report is based on surmises and conjecture as there is no material to show that there was any likelihood of petitioner coming into association with any known criminal or his release would expose him to moral, physical or psychological danger or his release would defeat the ends of justice. The Social Investigation Report talks about lack of control and discipline in the family, but no material has been shown for arriving at such conclusion. Learned counsel further



submits that the CICL is in observation home since 14.10.2024 and is not a previous convict. The petitioner has got no criminal history. 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/CICL. Learned counsel further submits that the father of the petitioner has given an undertaking that if the petitioner is released on bail, he would keep him in his custody and look-after him properly and assured on behalf of the CICL that he is ready to cooperate with the process of law and present the CICL/petitioner before the learned JJ Board whenever required apart from other conditions imposed by the Court for grant of bail. Thus, the learned counsel submits that the order dated 05.03.2025 of the learned J. J. Board, Patna as well as order dated 17.05.2025 of the learned Additional Sessions Judge-I-cum-Special Judge (Children Court), Patna may be set aside.

6. Learned APP for the State vehemently opposes the submission made on behalf of the petitioner. Learned APP submits that there is no illegality in the impugned orders passed by both the courts below. There is specific allegation against the petitioner for commission of rape. Further, the Social



Investigation Report of the Probation Officer shows family of the petitioner is not supportive of his growth and there is lack of control and discipline in the family. Learned APP further submits that since there was lack of conducive environment in the family of the CICL for his proper upbringing and the same is against the safety of the CICL.

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

8. 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.”

9. 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 or 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.

10. Further, the JJ Act is, in fact, child friendly. The central theme is that the interest of child is supreme. Section 3 of the JJ Act incorporates the general principles to be followed in the administration of the Act. According to which, “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. In fact, 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.”

11. Cumulative reading of aforesaid provisions show the CICL should 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 expose him to moral, physical or psychological danger. 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. So far as the reliance placed by the learned



JJ Board as well as the learned appellate court on the Social Investigation Report is concerned, it does not appear to be proper as while furnishing the reason, the material on the basis of which the report has been given about lack of control and discipline in the family has not been discussed.

12. However, considering the fact that the Courts are bound to see that the interest of the CICL is protected at any cost, the CICL is in observation home since 14.10.2024 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 the J.J. Act. Therefore, the conclusions arrived at by the learned District Courts are not sustainable and hence, the impugned order dated 05.03.2025 passed by learned Juvenile Justice Board, Patna in JJB Case No. 1119 of 2024 arising out of Kadamkuan P.S. Case No. 784 of 2024 and the judgment/order dated 17.05.2025 passed by the learned Additional Sessions Judge-I-cum-Special Judge (Children Court), Patna in Criminal Appeal No.37 of 2025, are hereby set aside.

13. Let the petitioner, a child in conflict with law, 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, Patna/concerned court in connection with JJB Case No. 1119 of 2024 arising out of Kadamkuan P.S. Case No. 784 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 present revision petition is allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.06.2026
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