

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1359 of 2025

Arising Out of PS. Case No.-60 Year-2025 Thana- BALIYA District- Begusarai

CICL X Son of Bhushan Sah @ Bhushan Gupta, Under guardianship of his father Bhushan Sah @ Bhushan Gupta, Son of Brahmdeo Sah Resident of Village Kaswa, Ward No. 06, P.S. - Balia, District - Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Afsana Khatoon Wife of Md. Amzad R/o Village - Kasba, P.S. - Balia, Dist. - Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Umesh Prasad, Advocate
For the State	:	Mr.Narsingh Tanti, APP
For the Informant	:	Mr. Saudip Kumar Gautam, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 07-07-2026

Heard learned counsels for the parties.

02. The present petition has been filed for setting aside the Judgment/Order dated 24.09.2025 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, NDPS Act and Presiding Officer of Children Court, Begusarai passed in Cr. (J.V.)Appeal No. 17 of 2025 whereby and whereunder the order dated 28.05.2025 passed by the learned J.J.Board, Begusarai rejecting the prayer for bail by the petitioner in JJB No. 83 of 2025 arising out of Ballia P.S. Case No. 60 of 2025 for the offences under Section 65(2) of the BNS and Section 6/10 of the POCSO Act has been affirmed thereby the prayer for bail of the petitioner/child in conflict with law was rejected by both the courts.

03. Briefly stated facts of the case are that Ballia P.S. Case No. 60 of 2025 has been registered under Sections 65(2) of



the BNS and Section 6/10 of the POCSO Act on *fardbayan* of the informant wherein she alleged that her five year old daughter was ravished by the petitioner. The petitioner was taken into custody on 25.02.2025 and his age was declared to be 15 years 10 months and 14 days vide order dated 19.05.2025 by the learned J.J. Board, Begusarai and the petitioner was declared to be Child in Conflict with Law (in short “CICL”).

04. Petitioner moved for grant of bail before the learned J.J. Board and the learned J.J. Board, Begusarai vide its order dated 28.05.2025 passed in JJB No. 83 of 2025 rejected the prayer for bail.

05. Against the rejection order of the learned J.J. Board, Begusarai, the petitioner went into appeal. Further, the learned Additional Sessions Judge-1st-cum-Special Judge, NDPS Act and Presiding Officer of Children Court, Begusarai vide its order dated 24.09.2025 passed in Cr. (J.V.)Appeal No. 17 of 2025 also rejected the prayer for bail.

06. Feeling aggrieved by the concurrent rejection of his prayer for bail by the two courts, the petitioner has challenged the order of the learned appellate court in the instant revision petition.

07. Learned counsel appearing on behalf of the



petitioner submits that the petitioner is having clean antecedent and he has not committed any offence. The prosecution story is not believable that the occurrence took place in the middle of the day when there are always people present at the shop. Learned counsel also submits that the learned appellate court as well as the learned J.J. Board, Begusarai rejected the prayer for bail considering the gravity of the offences but under Section 12 of the 12 of the Juvenile Justice (Care and Protection of Children) Act (in short "J.J. Act"), grant of bail to a CICL is mandatory unless release of such child would expose him to moral, physical or psychological danger or there was chance that such release would bring the child into association of known criminals or such release would defeat the ends of justice. Learned counsel further submits that though the subordinate courts have observed that as the petitioner and the victim belong to two different communities, release of CICL would expose him to moral, physical and psychological danger but there is no material available to support such contention. Similarly, the observation made by the learned appellate court about the petitioner/CICL having addiction of smoking and alcohol is not supported by the social investigation report or social background report. Learned counsel also submits that the



charge sheet has been submitted in this case and the petitioner is a student of Class 11 and if he is allowed to continue in protective custody, his career would be ruined. The negative report about petitioner has been given by the people belonging to the majority group where the family of the petitioner is in minority and therefore, negative view is not sustainable. Learned counsel further submits that the parents of the petitioner are ready to take care of him and they further undertake that the petitioner would not be allowed to come in contact with bad elements. Learned counsel relied on other decision of this court passed in *XXX Vs. State of Bihar & Anr., Criminal Revision No.403 of 2025*, as well as another decision of learned Single Judge passed in the case of *XX vs. State of Bihar, 2020(4) BLJ 414*, in support of his contention that bail could not be denied to a CICL due to enormity and graveness of the allegation.

08. Learned APP and learned counsel for the informant/opposite party no. 2 vehemently oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that the medical report proves the commission of offence of rape. The petitioner perpetrated a very heinous offence with a five year old girl. In the social



background report of the petitioner, it has come that he was in contact with old boys who are addicted to smoking, alcohol and teasing girls and also engaged in wrongful activities and there was every chance that if the petitioner is released on bail, he would come in contact with those bad elements.

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

10. Section 12 of the J.J. Act provides that a CICL shall be granted bail except for certain conditions in the proviso to the said section. It has been stipulated that a CICL would not be released on bail if such release would bring him in association with any known criminals or such release would expose the child to moral, physical or psychological danger or such release would result in defeating the ends of justice.

11. Section 3(iv) of the J.J. 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 J.J. 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 J.J. 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.”

12. In the present facts and circumstances, it is evident that the petitioner/CICL is in protective custody since 25.02.2025. The petitioner is not having any criminal antecedent and this is the first offence of the petitioner. Social Investigation Report is more or less favourable. Social Background Report talks about the company of the petitioner being bad but at the same time, petitioner is a student and has been studying in Class 11 when he was taken into custody. It is also a fact that institutionalization of a CICL is never in his best interest and could be employed only as a last resort. The reformation and rehabilitation of a child is better if he is kept in his family and not by putting the child under protective custody. So far as apprehension of exposure to physical and psychological danger is concerned, nothing has come on record to support this contention. Therefore, I am of the considered opinion that the impugned orders of the learned Additional Sessions Judge-1st-



cum-Special Judge, NDPS Act and Presiding Officer of Children Court, Begusarai could not be sustained and accordingly, the order dated 24.09.2025 is set aside. Consequently, the order dated 28.05.2025 passed by the learned J.J. Board, Begusarai is also set aside.

13. Accordingly, the present revision petition is allowed and petitioner/CICL is directed to 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, Begusarai/concerned court, in connection with JJB No. 83 of 2025 arising out of Ballia P.S. Case No. 60 of 2025, 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 giving undertaking that he/she shall keep proper care and upkeep of the appellant.*
- (ii) The petitioner shall remain present before the Board on each and every date of trial of the case fixed by the Board and shall fully co-operate in the pending enquiry/trial.*

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	08.07.2026
Transmission Date	08.07.2026

