HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

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CrlA(D) no. 68 of 2025

Reserved on: 23.10.2026
Pronounced on: 29. 10.2026
Uploaded on: 30. .10.2026

Whether the operative part or full judgment is pronounced: Full

Suheel Javaid Lone

…….Appellant(s)

Mr. Jahangir Ahmed Wani Advocate
Mr. Aditya Pandita Advocate.

Versus

National Investigation Agency, Jammu

……Respondent(s)

Mr. Vishal Sharma DSGI with
Mr. Karan Sharma CGSC
Mr. Chandan Kumar Singh PP, NIA
Mr. Ashwani Verma PP NIA

***CORAM*:**
HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR JUSTICE M. A CHOWDHARY, JUDGE

JUDGEMENT

Sanjeev Kumar J

1. This appeal, under Section 21 of the National Investigation Agency Act, 2008 (for short, "the NIA Act"), read with Sections 101 and 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short, "the JJ Act"), has been filed by the petitioner, a child in conflict with law, seeking quashment of order dated 17.11.2025 passed by the learned Presiding Officer, Fast Track Court, Jammu [Designated Children Court] (hereinafter referred to as "the trial Court"), whereby his application for grant of bail has been rejected. The petitioner seeks his release on bail under Section 12 of the JJ Act in connection with FIR No. 45/2020, re-registered by the National Investigation Agency, Jammu, as RC-02/2020/NIA/Jammu.

FACTUAL BACKGROUND:

2. The facts, as projected by the prosecution, are that on 31.01.2020, a police party headed by ASI Rajinder Singh, comprising SgCt Kartar Singh and Constable Boom Raj, along with some personnel of CISF, was deployed at Ban Toll Plaza, Jammu, for checking vehicular traffic. At about 0530 hours, a truck bearing registration No. JK03F-1478, proceeding from Jammu towards Srinagar, was stopped for checking. It is alleged that terrorists travelling in the said truck opened indiscriminate fire upon the police and security personnel, resulting in injuries to Constable Boom Raj. In terms of an order dated 07.02.2020 issued by the Ministry of Home Affairs, Government of India, the investigation of the case was transferred to the National Investigation Agency, which re-registered the case as RC-02/2020/NIA/Jammu Upon completion of the investigation, the investigating agency found the involvement of six persons, including the petitioner, in a conspiracy to facilitate the movement of terrorists and carry out an attack upon the security forces.

3. The charge-sheet was presented on 27.07.2020 before the learned 3rd Additional Sessions Judge, Jammu, designated as the 'NIA Court', against the adult accused persons. Since the petitioner was found to be 17 years, 5 months and 11 days old on the date of the alleged occurrence, a separate charge-sheet was presented against him before the Juvenile Justice Board, Jammu.

4. The learned Principal Magistrate, Juvenile Justice Board, Jammu, vide order dated 04.11.2020, upon conducting the preliminary assessment as envisaged under Section 15 of the Juvenile Justice (Care and

Protection of Children) Act, 2015 ["the Act of 2015"], concluded that the petitioner, being above sixteen years but below eighteen years of age, possessed the mental and physical capacity to commit the alleged offence, the ability to understand its consequences and the maturity to appreciate the circumstances in which the alleged offence was committed. Accordingly, the Board passed an order that the petitioner need to be tried as an adult and transferred the case to the competent Court for trial. The petitioner was charged by the NIA Court on 11.10.2021 with the commission of offences punishable under Sections 120-B, 121, 121-A and 122 of the Indian Penal Code and Sections 18 and 39 of the Unlawful Activities (Prevention) Act, 1967. Since the petitioner was to be tried as an adult, as such, NIA Court transferred the case to the trial Court, which is also functioning as the 'Children's Court' under the Act of 2015. Based on the preliminary assessment made by JJ Board, the trial Court decided to try the petitioner as an adult in terms of Section 19 of the Act of 2015.

5 The prosecution case, in brief, is that the petitioner, while pursuing coaching at Ambala, Haryana, came into contact, through social media, with one Abdul Rehman, stated to be a Pakistan-based handler associated with the terrorist organization Jaish-e-Mohammed. It is further alleged that the petitioner remained in close contact with co-accused Sameer Ahmad Dar, who was driving the truck in question, and facilitated the transportation of terrorists from the Jammu region towards the Kashmir Valley during the intervening night of 22/23 December 2019. The prosecution alleges that the said terrorists subsequently carried out an attack on the security forces at Ban Toll Plaza, Jammu.

SUBMISSIONS OF THE PARTIES

6 Learned counsel appearing for the petitioner submits that the trial Court has failed to appreciate the scope and ambit of Section 12 of the JJ Act. It is contended that the said provision is a special provision governing the grant of bail to a child in conflict with law and operates notwithstanding anything contained in the Code of Criminal Procedure or any other law for the time being in force. Learned counsel further submits that merely because the petitioner has been decided to be tried as an adult in terms of Section 19 of the Act of 2015, he does not cease to be a child entitled to the statutory protection available under Section 12 of the Act. The petitioner, according to learned counsel, is, therefore, entitled to consideration of his bail plea in accordance with the aforesaid provision. Learned counsel further submits that the proviso to Section 12(1) of the Act of 2015 enumerates the circumstances in which bail may be denied to a child in conflict with law. It is contended that neither the gravity of the alleged offences, by itself, nor the direction to try the petitioner as an adult can take away the special protection provided to him under Section 12 of the Act. Learned counsel would urge that the trial Court was required to record specific reasons, on the basis of the material available on record, to demonstrate that release of petitioner would bring his case within any of the exceptions contemplated under the proviso to Section 12(1) of the Act. It is also submitted that the petitioner has been in custody since 09.02.2020 and trial is yet not concluded, nor there is any likelihood of its early conclusion. On these grounds, learned counsel prays that the impugned order be set aside and the petitioner be admitted to bail.

7 *Per contra,* learned Standing Counsel appearing on behalf of the National Investigation Agency (NIA), would oppose the petition and submit that the material collected during the course of investigation, *prima facie*, indicates involvement of the petitioner in a conspiracy relating to the movement and facilitation of terrorists who subsequently attacked the security forces. Learned counsel would further submit that the petitioner was in contact with a terrorist handler based in Pakistan, as also with other accused persons allegedly involved in the conspiracy. It is contended that, in the event of his release on bail without adequate safeguards, there is a reasonable apprehension of the petitioner re-establishing contact with such persons, which may not only expose him to moral and psychological influences but also prejudice the course of justice. On these grounds, learned counsel submits that the order passed by the learned trial Court is well-founded in law and correct on facts and, therefore, does not warrant interference by this Court.

Reasoning and analysis:

8 We have heard learned counsel for the parties and carefully examined the record of the case.

09. The principal question that arises for consideration is whether the learned trial Court was justified in rejecting the petitioner's application for bail, particularly in view of the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

10. Before considering the rival submissions, it would be appropriate to notice the scope and object of Section 12 of the JJ Act. The provision reads as under:

> ***"12. Bail of Juvenile—***
>
> *(1)When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 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 person's 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 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".*

11 A plain reading of Section 12 of the Act makes it clear that a child in conflict with law is ordinarily entitled to bail, irrespective of whether the alleged offence is bailable or non-bailable. The heinousness of the offence too is not a valid ground to reject bail plea of CCL.This general rule is, however, subject to the exceptions prescribed in the proviso, viz. (i)

where there are reasonable grounds for believing that the release of the child is likely to bring him into association with any known criminal, (ii) expose him to moral, physical or psychological danger, or (iii) defeat the ends of justice. The Court is, therefore, required to carefully examine the facts of each case in the light of these exceptions and record its reasons for denying the bail, along with the circumstances that have led to such a decision.

12. The question as to whether a CCL, who is decided to be tried as an adult in terms of Section 19 of the Act of 2015, would lose protection available to him under Section 12 of the Act of 2015, is well settled through a long line of judicial pronouncements rendered by different High Courts. It is well settled that a child who is decided to be tried as an adult under Section 19 of the Act does not cease to be a child as defined under Section 2 (12) of the Act of 2015. Section 12 of the Act deals with bail as a matter of right to a person who is apparently a child, irrespective of whether he is alleged to have committed a bailable or non-bailable offence. A CCL is entitled to be released on bail under Section 12 of the Act, notwithstanding anything contained in the Code of Criminal Procedure. The bail of a CCL under Section 12 of the Act can only be denied by the Board if the case falls within the exceptions contained in the proviso to Section 12(1) of the Act.

13 A plain reading of Section 12 of the Act of 2015 would reveal that such power is conferred only on the JJB. However, when we look at Section 8 of the Act, we find that all the powers conferred on the JJB by or under the Act may also be exercised by the High Court as well as the Children's Court when proceedings come before them under Section 19 of the Act. Section 8(2) of the Act is set out below for ready reference:

> "8- **Powers, functions and responsibilities of the Board**:-
>
> (1)…….
>
> (2) The powers conferred on the Board by or under this Act may also be exercised by the High Court and the Children's Court, when the proceedings come before them under section 19 or in appeal, revision or otherwise.
>
> (3)……

14 Learned counsel for the petitioner would contend that the gravity of the alleged offences, by itself, cannot justify denial of bail. There can be no quarrel with this proposition. The seriousness of the allegations, the heinousness of offence and that the offence is non-bailable cannot be grounds to jettison the statutory requirements of Section 12. The issue must, therefore, be examined in the light of the material collected during investigation and the exceptions prescribed under the said provision.

15. In view of the clear and unequivocal provisions of Section 8(2) of the Act of 2015, it does not lie in the mouth of the respondents to contend that power under Section 12 of the Act can only be exercised by the JJB and not by the Children's Court.

17 The prosecution's specific case is that, while pursuing coaching at Ambala, the petitioner came into contact, through social media, with a Pakistan-based handler allegedly associated with Jaish-e-Mohammed. It is further alleged that the petitioner remained in contact with co-accused Sameer Ahmad Dar and facilitated the movement of terrorists who subsequently attacked the security forces at Ban Toll Plaza, Jammu. These allegations, if supported by the material collected during investigation, are relevant to the apprehensions raised by the prosecution. At this stage, this Court is not required to determine truth or otherwise of the prosecution case,

which is required to be decided by the trial Court on the basis of evidence. The question is whether the material on record provides reasonable grounds for attracting any of the exceptions under Section 12(1) of the JJ Act.

17. As stated above, Section 12(1) provides for refusal of bail where there are reasonable grounds for believing that the release of the child is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger. Such apprehensions must be supported by material on record and cannot rest on mere conjecture.In the present case, the prosecution has referred to the alleged handler and the co-accused with whom the petitioner is stated to have remained in contact. The alleged association and the role attributed to the petitioner in facilitating the movement of terrorists are relevant circumstances for examining the applicability of the statutory exceptions.

18. The alleged association of the petitioner with persons stated to be connected with a terrorist organization must also be considered from the standpoint of his welfare and rehabilitation. Where the material on record provides reasonable grounds to believe that the release of a child is likely to expose him to influences detrimental to his welfare, such circumstances may be considered while examining the exception relating to moral or psychological danger.In the present case, the alleged contacts and the role attributed to the petitioner lend support to the apprehension raised by the prosecution and the conclusions arrived at by the trial Court..

19. The petitioner has been in custody since 09.02.2020. The period of custody is a relevant consideration, particularly when the trial is pending

since 2020. However, it must be considered along with the other circumstances of the case. Having regard to the nature of the allegations, the alleged association of the petitioner with persons connected with the terrorist organization and the role attributed to him, this Court is of the view that the period of safe custody, though relevant, does not by itself warrant interference with the impugned order.The expression "defeat the ends of justice" occurring in Section 12(1) of the Act of 2015 cannot be invoked merely because the alleged offence is serious. The Court must examine whether the material on record provides reasonable grounds for believing that the release of the child would defeat the ends of justice.

20 In the present case, the alleged contact of the petitioner with a Pakistan-based handler associated with 'JeM', his continued contact with the co-accused and his active involvement in facilitating the movement of terrorists are relevant circumstances for such consideration. The trial Court has considered the relevant material collected by the prosecution and rightly appreciated the consequences of release of the petitioner. In the facts and circumstances of the case, the conclusions of the trial cannot be said to be without a reasonable basis. The impugned order is well reasoned and specifically delineates the circumstances that persuaded the trial Court to apply proviso to Section 12(1) of the Act and deny release of the petitioner on bail.

21 The Act of 2015 is reformative and rehabilitative in its object. It needs no emphasis that a child in conflict with law cannot be treated on a par with an adult accused merely because the allegations are serious. However, the object of the Act must be read along with the exceptions expressly

provided under Section 12(1) of the Act. Where the material on record brings the case within any of these exceptions, the Court is required to give effect to the statutory provision.

25. For the foregoing reasons, this Court is of the considered view that the petitioner has failed to make out a case for interference by this Court with the order dated 17.11.2025 passed by the learned Presiding Officer, Fast Track Court, Jammu [‘Children’s Court’]. Accordingly, the petition is dismissed and the order dated 17.11.2025 passed by the learned Presiding Officer, Fast Track Court, Jammu, rejecting the petitioner’s prayer for bail, is upheld. The observations made hereinabove are confined to the consideration of the petitioner’s prayer for bail and shall not be construed as an expression of opinion on the merits of the case. The trial Court shall decide the matter independently on the basis of the evidence led before it and in accordance with law.The petitioner shall be at liberty to seek bail afresh in the event of a material change in circumstances. The record, if any, be transmitted to the trial Court.

HIGH COURT JAMMU & KASHMIR AND LADAKH

(M.A Chowdhary)
Judge

(Sanjeev Kumar)
Judge

Srinagar
30 .10.2026
Sanjeev

Whether order is speaking:Yes
Whether approved for reporting? Yes

Sanjeev Kumar
2026.10.30 11:14
I am the author of this document