IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.755 of 2025
Arising Out of PS. Case No.-19 Year-2024 Thana- KHUTAUNA District- Madhubani

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

... ... Petitioner/s

Versus

The State of Bihar

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Dhirendra Kumar, Adv.
For the Respondent/s : Mr.Ram Bilash Roy Raman, Spl.P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 04-11-2025

Heard learned counsel for the petitioner as well as learned Spl.P.P. for the State.

02. The petitioner is a juvenile in conflict with law and the instant revision petition has been filed for setting aside the order dated 07.05.2025 passed in Juvenile Appeal No. 07 of 2025 arising out of Khutauna P.S. Case No. 19 of 2024 registered under Section 399, 402, 120B of the Indian Penal Code and 25(1-b)a, 26, 35 of the Arms Act by the learned Additional Sessions Judge-I-cum-Special Judge, Children Court, Madhubani whereby and whereunder the learned Appellate Court rejected the appeal of the petitioner and the prayer of the petitioner for grant of bail.

03. As per prosecution case, police apprehended the

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petitioner and three other co-accused persons while they assembled for making preparation to commit crime and 2-3 persons managed to escape from the spot taking advantage of darkness. Recovery of arms, ammunition and mobile phones were made from other co-accused persons. From the possession of the petitioner a mobile phone was recovered.

04. Learned counsel for the petitioner submits that the impugned order is not sustainable and the learned Appellate Court has passed the order without considering the facts and law. The learned Appellate Court rejected the prayer for bail on the ground of the Social Investigation Report of the petitioner but the said report has been prepared with false averments by submitting that petitioner was not in control of his mother and there was absence of moral and ethical values in the house and for this reason, there was possibility of involvement of the petitioner in anti-social activities after his release. But the petitioner never indulged in any illegal activities and his mother undertakes to take control of her son in future and not to allow him to indulge in any criminal activities. Learned counsel further submits that petitioner is a minor and seriousness and gravity of offence could not be considered while granting bail to the petitioner who is a child in conflict with law. The Social

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Background Report and the Social Investigation Report have been prepared on the basis of wrong facts. It is the requirement of law that unless reasonable grounds are available to believe that in the event of grant of bail, the petitioner would go into association of any known criminals and he would be exposed to moral, physical and psychological danger or that the release of the petitioner would defeat the ends of justice, the prayer for bail ought not to be rejected. But the learned Appellate Court in general and vague terms and without considering the express provisions of law went on to reject the prayer for bail of the petitioner and at the same time also mentioned that the allegation against the petitioner was serious in nature. The same could not be a consideration for rejection of bail of the petitioner.

05. Learned counsel for the petitioner further submits that the petitioner and other co-accused persons were apprehended by the police party with allegation that they had been making plan for committing dacoity and some of the co-accused persons were apprehended with firearms and ammunition but from the possession of the petitioner recovery of only a mobile phone was made and no firearm or ammunition were recovered from his possession. The petitioner had been

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made accused in two more cases on the basis of confessional statement of co-accused Pankaj Kumar and prior to that there was no criminal antecedent of the petitioner. Both the cases were lodged on 19.01.2024 and subsequently the petitioner was apprehended in this case on 23.01.2024 showing as one of the accused persons and since then the petitioner is in custody. Other co-accused persons have been granted bail by Co-ordinate Bench of this Court vide order dated 30.07.2024 passed in Cr. Misc. No. 47886 of 2024, order dated 05.09.2024 passed in Cr. Misc. No. 60492 of 2024 and order dated 04.12.2024 passed in Cr. Misc. No. 82496 of 2024. Learned counsel next submits that since no grounds are forthcoming for believing that release of petitioner was likely to bring him into association of any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice, the order of the learned Appellate Court is not sustainable.

06. Learned Spl.P.P. opposes the submission made on behalf of the child in conflict with law.

07. Perused the record.

08. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as under:-

> *"Section 12 Bail to a person who is apparently a child alleged to be in conflict with law.*

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> *1) When any person, who is apparently a child and is alleged to have committed a abailable 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 1[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."*

Therefore, there exists a non-obstante clause that child in conflict with law **shall** be released on bail notwithstanding

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anything contained in the Code of Criminal Procedure, 1973.

09. Further relevant portion of Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides for the general principles of care and protection of children and are extracted herein below:-

> *"Section 3 : General principles to be followed in administration of Act.*
> *(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.*
> *(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.*
>
> *(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances."*

10. In the light of the aforesaid provisions, the case of any child in conflict with law for grant of bail is to be considered. Underlying principle is the best interest of the child and gravity and nature of offences are immaterial for consideration of grant of bail to a child/juvenile in conflict with law. It is the duty of the Court to ensure that any decision taken in respect of the child must be based on the primary consideration of the best interest of the child. Proviso to Section 12 makes certain

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exceptions for refusal of bail to a child in conflict with law. Apparently, bail to a child in conflict of law could be denied only on certain conditions specially on the ground that the child in conflict with law would come into association of any known criminal or there would be moral, physical or psychological danger if the child is released on bail or that the ends of justice would be defeated by such release.

11. The learned Appellate Court has not discussed the issues except making bland assertion that the petitioner was an active member of a gang of robbers and was a criminal minded and was not under control of his parents. Though the petitioner is having antecedent of two cases, the circumstances around lodging of these two cases does not rule out the possibility of false implication. It has not been mentioned how the learned Appellate Court arrived at the finding that the child was not in control of his mother and there is absence of moral and ethical values in the house or that there was possibility of involvement of petitioner in anti-social activities after his release. Further, considering the serious nature of allegation against the petitioner for denying the bail was simply uncalled for and unwarranted.

12. Therefore, having regard to all the facts and circumstances and considering the provisions of law applicable to grant of bail to a child in conflict with law, I am unable to agree with the finding recorded by the learned Appellate Court and therefore, the

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order of the learned Appellate Court dated 07.05.2025 is set aside and the present revision petitioner is allowed. Hence, the petitioner/juvenile in conflict with law 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 Additional Sessions Judge-I-cum-Special Judge, Children Court, Madhubani/concerned court, in connection with Juvenile Appeal No. 07 of 2025 arising out of Khutauna P.S. Case No. 19 of 2024, subject to the following conditions:

(i) One of the bailors will be the mother of the petitioner and other bailor will also be relative of the petitioner having no criminal antecedent.

(ii) The petitioner shall remain present before the Board on each and every date of trial of the case fixed by the Board.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	-
CAV DATE	-
Uploading Date	04.11.2025
Transmission Date	04.11.2025

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