



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Criminal Revision Petition No. 1503/2024

Us@us@ub S/o Shri Pawan Sharma, Aged About 16 Years, Age About 16 Years 2 Months (16.02.2008 According To Class-8 Marksheet) R/o House No. 1-L-24, Chauth Mata Mandir Ke Pass, Rangbadi Yojana, P.s. Mahaveer Nagar, Kota City, Minor Through Guardian Mother Aarti Sharma W/o Pawan Sharma R/o House No. 1-L-24, Chauth Mata Mandir Ke Pass, Rangbadi Yojana, P.s. Mahaveer Nagar, Kota City (Raj.). (Accused At Present Confined In Observation Home, Kota)

----Petitioner

Versus

1. State Of Rajasthan, Through Public Prosecutor
2. Rodu Lal Nagar S/o Shri Gori Shankar Nagar, Aged About 55 Years, R/o Killa Mohalla, Manohar Thana, P.s. Manohar, District Jhalawar (Raj.).

----Respondents

For Petitioner(s) : Mr.Kapil Gupta
Mr.Dharmendra Kumar
Ms.Anisha Yadav
Ms.Nidhi Sharma
Mr.Chitransh Saxena
Mr.Aval Yadav
Mr.Abhimanyu Chundawat

For Respondent(s) : Mr.Ajay Singh for Complainant
Mr.Amit Punia, Addl.GA-cum-PP

JUSTICE ANOOP KUMAR DHAND

Order

Reserved on : 14.10.2025
Pronounced on : 17.10.2025
Reportable



For convenience of exposition, this judgment is divided into the following parts:-

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Juvenile crime is not naturally born in the child, but is largely due either to the spirit of the adventure that is in him, to his own stupidity, or to his lack of discipline, according to the nature of the individual.

----Robert Baden-Powell

Prelude:-

1. The term "Juvenile" has been originated from the Latin word "Junvenilis". It means someone young & immature. It can be referred to as the early stage of development, youthfulness or lack of maturity. A Juvenile is a child who has not reached the age at which he/she may be held accountable for his/her criminal activities in the same way that an adult may be. When referring to a young criminal offender, the term "Juvenile" is used. As a result, a Juvenile is a child who is accused of doing certain acts or omissions that are illegal and have been classified as such by the penal laws.

2. The laws relating to the children/juveniles, having their seeds right from the enactment of the Constitution of India in the



form of fundamental rights under Article 15(3) read with the Directive Principles of State Policy under Article 39(e) & (f) along with fundamental duties under Article 51A of the Constitution of India were the need of the society. The laws relating to the children/juveniles were also expedient to be enacted due to accession by the Government of India to the Convention on the Rights of the Child, 1989, the UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985, the UN Rules for the Protection of Juveniles Deprived of Their Liberty, 1990 and the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, 1993. Therefore, the law relating to children/juveniles was enacted in the year 1986 in form of the Juvenile Justice Act and the same was, as per the above said natural phenomenon of changes, amended from time to time and accordingly the Juvenile Justice (Care and Protection of Children) Act, 2000 and Juvenile Justice Act, 2015 have been enacted”.

3. The following are the objectives of the Juvenile Justice (Care and Protection of Children) Act, 2015:-

- a. To lay down the basic principles for administering justice to a juvenile or the child in the Act;
- b. To make the juvenile justice system meant for a juvenile or the child more appreciative of the developmental needs in comparison to the criminal justice system as applicable to adults;
- c. To bring the juvenile law in conformity with the United Nation Convention on the Rights of the Child;
- d. To prescribe a uniform age of eighteen years for both boys and girls;





e. To ensure speedy disposal of cases as enshrined under Article 21 of the Constitution of India by the authorities envisaged under this Act regarding juvenile or the child within a time limit of four months;

f. To spell out the role of the State as a facilitator rather than a doer by involving voluntary organizations and local bodies in the implementation of the proposed legislation;

g. To create special juvenile police units with a humane approach through sensitization and training of police personnel;

h. To enable increased accessibility to juvenile or the child by establishing the Juvenile Justice Boards and Child Welfare Committees and Homes in each district or group of districts;

i. To minimize the stigma and in keeping up with the developmental needs of the juvenile or the child, by way of separating the Act into two parts—one for juveniles in conflict with the law and the other for the juvenile or the child in need of care and protection;

j. To provide for effective provisions and various alternatives for rehabilitation and social reintegration such as adoption, foster care, sponsorship, and aftercare of abandoned, destitute, neglected, and delinquent juvenile and child.

k. To allow juveniles between the age group of 16-18 years to be tried as adults for heinous offenses.

4. The only issue involved in the instant revision petition is “Whether a Juvenile above the age of 16 years and below the age of 18 years can be granted benefit of bail under Section 12 of the Act of 2015, even after passing of an order under Sections 15 and 18 of the Act of 2015, i.e., conducting his trial as an ‘Adult Accused’ before the Children’s Court?”



**Factual Matrix & Prayer:-**

5. The instant criminal revision petition, under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015'), has been preferred by the 'Child In Conflict With Law' (for short, "the CICL")-petitioner against the judgment dated 01.08.2024 passed by the Children's Court in Appeal No.331/2024 by which the appeal preferred by the petitioner against the order dated 10.07.2024 passed by the Juvenile Justice Board, Kota (for short, "the JJB") has been rejected.

6. By passing the order dated 10.07.2024, the bail application filed by the petitioner under Section 12 of the Act of 2015 has been rejected by the JJB.

Contentions of the petitioner:-

7. Learned counsel for the petitioner submits that at the time of commission of the alleged offence, the age of the petitioner was 16 years and 2 months and as per the prosecution case, the petitioner along-with other co-accused persons was making reel of juggling the weapon from one hand to another and while doing so, the gun was shot and the deceased died due to sustaining bullet injury. Counsel submits that two witnesses of the above occurrence namely, Ravi and Ravi Mahawar, have not supported the version of the prosecution and they have been declared hostile. Counsel submits that a preliminary assessment of the petitioner under Section 15 of the Act of 2015 was conducted and on the basis of the said report, the matter of the petitioner has been sent to the Children's Court under Section 18 of the Act of 2015 for conducting his trial as an 'Adult Accused'. Counsel



submits that the co-accused have been granted indulgence of bail by the regular Court. The petitioner has been in custody since May, 2024 and conclusion of trial is bound to take its own time to conclude, therefore, indulgence of bail be granted to the petitioner during pendency of the trial. Counsel submits that the bail application of an accused-CICL, like the petitioner, is required to be decided within the parameters, as defined under Section 12 of the Act of 2015 and the gravity of offence is not required to be looked into.

8. In support of his contentions, counsel for the petitioner has placed reliance upon the following judgments passed by the different High Courts :-

(I) XXX Vs. State of Bihar (Criminal Revision No.233 of 2021) passed by the Patna High Court.

(II) Biswajit Kumar Pandey Vs. State of Bihar (Criminal Revision No.617 of 2024) passed by the Patna High Court.

(III) XXX Vs. State by Women Police Station & Anr. (Criminal Petition No.9582/2024) passed by High Court of Karnataka at Bangaluru.

(IV) XXX Vs. State of Haryana (Criminal Appeal) decided by High Court of Punjab and Harayana at Chandigarh.

(V) CCL Vs. State of NCT Delhi reported in AIR OnLine 2020 Del 1439 passed by High Court of Delhi at New Delhi.

(VI) X Vs. State of Uttarakhand (First Bail Application No.273 of 2024) decided by High Court of Uttarakhand At Nainital.

(VII) Neelam Joshi Vs. State and Other (S.B. Criminal Revision Petition No.517/2017) decided by High Court of Rajasthan at Jaipur.

(VII) Shubham @ Bablu Vs. State of Maharashtra (Bail Application No.2282/2021) decided by High Court of Bombay.





(VIII) Juvenile Vs. The State of Madhya Pradesh
(Criminal Appeal No.818/2024) decided by High
Court of Madhya Pradesh at Indore.”

9. Counsel submits that in view of the submissions made hereinabove, the indulgence of bail be granted to the petitioner in accordance with the provisions contained under Section 12 of the Act of 2015.

Contentions of the Public Prosecutor & counsel for the complainant:-

10. *Per contra*, learned Public Prosecutor as well as counsel for the complainant opposed the arguments raised by counsel for the petitioner and submitted that the petitioner is the principle accused, who has opened fire on the deceased and the deceased died due to the bullet injury. Counsel submits that looking to the heinous act committed by the petitioner and looking to the report, prepared by the competent authority under Section 15 of the Act of 2015, a decision was taken by the JJB for conducting the trial of the petitioner as an adult accused, in view of Section 18 of the Act before the Children’s Court. Counsel submits that the case of the petitioner is distinguishable with the co-accused to whom indulgence of bail has been granted. Counsel submits that the above two witnesses Ravi and Ravi Mahawar are actually not the eye-witnesses the incident, as they arrived at the scene of the alleged offence, after occurrence of the incident. Counsel submits that a video of the entire occurrence has been recorded and the same was seized by the Investigating Officer during the course of trial, which indicates involvement of the petitioner in the commission of the offence. Counsel submits that looking to the gravity of the matter, the petitioner does not deserve any





indulgence of bail and the instant revision petition is liable to be rejected.

11. In support of their contention, learned Public Prosecutor and counsel for the complainant have placed reliance upon the following judgments passed by the different High Courts :-

“(I) XXX Vs. State of Rajasthan (S.B. Criminal Revision Petition No.681/2025) passed by the High Court of Rajasthan at Jodhpur.

(II) Mr.X (Minor) Vs. State of U.P. & Anr. (Criminal Revision No.1036 of 2022) passed by the Allahabad High Court.

(III) Child In Conflict With Law Vs. State of Rajasthan (S.B. Criminal Revision Petition No.1293 of 2023) passed by the Rajasthan High Court at Jaipur.

(IV) XX Vs. State of Rajasthan & Ors. (S.B. Criminal Revision Petition No.755 of 2023) passed by the Rajasthan High Court at Jaipur.

(V) Child Under Conflict With Law vs. The State of Madhya Pradesh (Criminal Revision No.1300/2024) passed by the Madhya Pradesh High Court at Jabalpur.

(VI) Jai Prakash Kumar Vs. State of Punjab (Criminal Revision No.1103 of 2021) passed by Punjab and Haryana High Court.

(VII) Xyz Vs. State of Maharashtra & Ors. (Criminal Appeal No.445 of 2023) passed by Bombay High Court.

(VII) Radhika (Juvenile) Vs. State of U.P. (S.B. Criminal Appeal No.441855 of 2019) passed by the Allahabad High Court.

Discussions, Analysis & Reasoning:-

12. Heard and considered the submissions made at the Bar and perused the material available on the record.





13. In India, crimes committed by the children are known as 'juvenile crimes' i.e., delinquent acts committed by the children, under a specified age and the same are known as 'child crimes'.

14. Before proceeding further to deal and decide with the legal issue emerging in the instant revision petition, it would be appropriate and gainful to quote Section 12 of the Act of 2015, which reads as under:-

"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 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 subsection (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."

15. A perusal of Section 12 of the Act of 2015 clearly emerges that Section 12 of the Act of 2015 overrides the bail provisions, as contained in the Cr.P.C. or any other law for the time being in force. It further emerges that as per Section 12 of the Act of 2015, bail to the Juvenile is a rule and refusal of the same is an exception and Juvenile can be denied bail only on the following three grounds: (i) if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal, or, (ii) expose the said person to moral, physical or psychological danger, or, (iii) the person's release would defeat the ends of justice.

16. It also emerges that the seriousness of the alleged offence or the age of the juvenile are also not relevant considerations for denial of bail, under Section 12 of the J.J. Act of 2015. Even a child who is of the age of 16 years or above and is alleged to have committed a heinous offence is also entitled to get bail under





Section 12 of the Act of 2015. There is no classification, whatsoever, provided under Section 12 of the Act of 2015 in regard to grant of bail. Section 12 is applicable to all juveniles, in conflict with law, without any discrimination of any nature.

17. Here, it would also be pertinent to point out that the ends of justice, as used in the proviso to Section 12(1) of the Act of 2015, is drastically different to one as used in the context of penal statutes. The ends of justice in the context of any Act is ascertained on the basis of the purpose and object of that Act and the objective of the Act of 2015 is to reform and rehabilitate the juveniles and not to punish them, as emerges from the preamble to the Act of 2015, which reads as follows:

“An Act to consolidate and amend the law relating to children alleged and found to be in conflict with law and children in need of care and protection by catering to their basic needs through proper care, protection, development, treatment, social reintegration, by adopting a child-friendly approach in the adjudication and disposal of matters in the best interest of children and for their rehabilitation through processes provided, and institutions and bodies established, herein under and for matters connected therewith or incidental thereto.”

18. The purpose and object of the Act of 2015 manifests in Section 3 of the Act of 2015, providing for general principles to be followed in the administration of the Act. Section 3 of the Act of 2015 reads as follows:

“3. General principles to be followed in administration of Act. The Central Government, the State Governments, the Board, and 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.

(vii) Positive measures: All resources are to be mobilised including those of family and community, for promoting the well-being, facilitating development of identity and providing an inclusive and enabling environment, to reduce vulnerabilities of children and the need for intervention under this Act.

19. The Act of 2015 is based on the belief that children are the future of the society and in case they get into conflict with the law under some circumstances, they should be reformed and





rehabilitated, and not punished. No society can afford to punish its children. Punitive approach towards children in conflict with law would be self-destructive for the society.

20. As such, if the keeping of the child in judicial custody is helpful in his development and rehabilitation or protection, only then it could be said that release of the child would defeat the ends of justice.

21. It also emerges from Section 3 of the Act of 2015 that Reformatory or Observation Home is only one of the measures contemplated by our legislature for reforming and rehabilitating the delinquent children. However, the family of the child in conflict with law has been considered by the legislature as the best and the most desirable institution to achieve the object of the Act. Hence, the primary responsibility of care and protection of the child has been given to the biological family or adoptive or foster parents of the child and it has been contemplated that every child in conflict with law has the right to be reunited with his family at the earliest. Institutionalization of a juvenile in conflict with law has been contemplated as the last resort.

22. As such, Section 12 of the Act of 2015 is in consonance with the purpose and object of the Act, providing for mandatory bail to a juvenile in conflict with law unless any of the grounds, as provided in the proviso to Section 12(1) of the Act of 2015 are present, so that the child is re-united with his family at the earliest opportunity and the protection, development, reformation and rehabilitation of the child is ensured.





23. Hence, under the Act of 2015, a child in conflict with law is not expected to be treated as an adult offender. The J.J. Boards/Courts are required to adopt a fundamentally different approach while dealing with the juveniles in conflict with law. They are expected to deal with such juveniles with all sensibility and responsibility, keeping in mind the purpose and object of the J.J. Act which is to reform and rehabilitate the child, so as to make him a responsible and productive member of the society. The society would be ruined if such children are dealt with punitive approach.

Position of law on the issue involved:-

24. In **Re-Exploitation of Children in Orphanages in the State of T.N. Vs. Union of Indian and Ors.** reported in **(2020) 14 SCC 327**, the Hon'ble Supreme Court has held that bail to a juvenile can be denied only on three grounds as provided in the Proviso to Section 12(1) of the J.J. Act, 2015.

The relevant part of the judgment reads as follows:

"7. Sub-section (1) makes it absolutely clear that a child alleged to be in conflict with law should 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. The only embargo created is that in case the release of the child is likely to bring him into association with known criminals or expose the child to moral, physical or psychological danger or where the release of the child would defeat the ends of justice, then bail can be denied for reasons to be recorded in writing. Even if bail is not granted, the child cannot be kept in jail or police lock-up and has to be kept in an observation home or place of safety."





25. The **Hon'ble Apex Court in Juvenile in Conflict with Law Vs. State of Rajasthan**, as reported in **2024 SCC OnLine SC 5297** has also held that a juvenile in conflict with law has to be necessarily released on bail unless the proviso is applicable and there must be a clear finding regarding the applicability of the proviso. The relevant part of the judgment reads as follows:



6. From the phraseology used in sub-section 1 of Section 12, a juvenile in conflict with law has to be necessarily released on bail with or without surety or placed under supervision of a probation officer or under the care of any fit person unless proviso is applicable.

7. We have perused all the orders passed earlier by the JJ Board, Special Court and High Court and specially the order dated 11th December, 2023 passed by the JJ Board. There is no finding recorded that the proviso to sub-Section 1 of Section 12 is applicable to the facts of the case. Without recording the said finding, bail could not have been denied to juvenile in conflict with law.

.....

9. Though none of the courts at no stage have recorded a finding that in the facts of the case, the proviso to sub-Section 1 of Section 12 was applicable, the juvenile in conflict with law has been denied bail for last one year.

10. Hence, the impugned orders are set aside. The appeal is accordingly allowed.

11. We direct that the juvenile in conflict with law shall be released on bail without surety. However, the jurisdictional Juvenile Justice Board



shall issue appropriate directions to the jurisdictional Probation Officer to keep the juvenile under supervision and to submit periodical reports to the Board about the conduct of the Juvenile."



26. The **Karnataka High Court** in **XXX (accused before the J.J. Board) Vs. State and Others**, reported in **2024:KHC:43235** has also held that Section 12 of the Act of 2015 is applicable even to a juvenile who is being tried as an adult by the Children's Court and in such situation, bail can be denied only on the grounds as provided in the Proviso to Section 12(1) of the Act of 2015. The relevant part of the judgment reads as follows:

"9. Section 12(1) of the Act provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973, or any other law for the time being in force, a child, who is produced before the Board, shall be released on bail subject to proviso to Section 12(1) of the Act of 2015. Therefore, it is very clear that even if the child is ordered to be tried as a adult, as provided under Section 18(3) of the Act of 2015, for the purpose of his bail application, Section 12 of the Act of 2015 would be applicable and his bail application cannot be considered under the provisions of Code of Criminal Procedure. As is evident from Section 12 of the Act of 2015, the only embargo in not releasing a child on bail is that there appears a reasonable ground that his release is likely to bring him into any association with any known criminal or expose him to moral, physical or psychological danger or that release of such a



person would defeat the ends of justice. The three disentitlement categories contemplated in the proviso to Section 12(1) of the Act of 2015, would not come in the way of the petitioner's application being considered under Section 12 of the Act of 2015 for the following reasons:-

- (a) The nature of crime committed by the petitioner is not likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger;
- (b) There is no such report available on record which suggests that the petitioner is likely to be exposed to moral, physical and psychological danger;
- (c) The victim girl and her parents do not apprehend any danger from the petitioner and they have appeared before the Special Court and stated that they have no objection for enlarging the petitioner on bail."

27. The **Allahabad High Court** in **Radhika (Juvenile) Vs. State of U.P.**, reported in **2019 SCC OnLine All 4911** has also held that under Section 12 of the Act of 2015, nature and character of the alleged crime is not a relevant consideration and the bail can be denied to a juvenile only on the grounds as provided in the Proviso to Section 12 of the Act of 2015. The relevant part of judgment reads as follows:

"**27.** It is explicit from the plain reading of Section 12 of the Act that irrespective of nature and character of the crime, if a 'child' brought by the police or appears before the Board, such child shall, notwithstanding anything contained in Code of Criminal Procedure, 1973 or any other law enforced in time, "shall' be released on bail with or without surety under the supervision of Probation Officer or





under the care of any fit person. The word 'fit person' is defined under section 2(28) of the Act, means any person prepared to owe responsibility of a child for a specific purpose and after making due enquiry in this behalf, the Board may give the custody of child in the hand of 'fit person'. Thus, it is clear that the child delinquent has got a right to be released on bail with or without surety and the gravity, nature and depth of the offence shall not come into the way.

28. However, in the proviso of Section 12(1) of the Act, there are three embargoes/riders; namely; (a) if there appears reasonable ground for believing that the release is likely to bring that person into association with any known criminal or; (b) expose that person as moral, physical or psychological danger or; (c) the person's release would defeat the ends of justice, the Board shall record the reasons for denying the bail and circumstances lead to such a decision.

29. From the plain reading of the above proviso, it has been clearly borne out that (1) the juvenile delinquent has got unqualified right to seek bail irrespective of the gravity, depth and seriousness of the offence; (2) his bail could be denied strictly on the three grounds, as mentioned under the proviso of Section 12 of the Act by the Board".

28. The **Punjab and Haryana High Court** has also held in the case of **Vishvas vs. State of Punjab** while deciding Criminal Revision Petition No.53/2021 vide order dated 08.02.2021 that under Section 12 of the Act of 2015, the nature and gravity of the alleged offence is not relevant while considering the bail application to a juvenile. Bail can be denied to a juvenile under Section 12 of the Act of 2015 only on such grounds as provided in the proviso to Section 12(1) of the Act of 2015 and there must be material on record in support of the grounds. It has also held that '**ends of justice being defeated**' has to be considered in the





context of the welfare of the juvenile. The relevant part of the judgment reads as follows:

"7. From a bare reading of the provisions of Section 12 of the J.J. Act, it appears that the intention of the legislature is to grant bail to the juvenile irrespective of the nature or gravity of the offence alleged to have been committed by him, and bail can be declined only in such cases where reasonable grounds are there for believing that the release is likely to bring the juvenile 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. Meaning thereby, as per aforesaid provision, a juvenile can be denied the concession of bail, if any of the three contingencies specified under Section 12(1) of the J.J. Act is available. Similar view was observed in cases Manoj Singh vs. State of Rajasthan 2004(2) RCC 995, Lal Chand v. State of Rajasthan MANU/RH/1042/2005 : 2006(1) RCC 167, Prakash v. State of Rajasthan MANU/RH/0549/2005 : 2006(2) RCR (Criminal) 530 and Udaibhan Singh alias Bablu Singh v. State of Rajasthan MANU/RH/1038/2005 : 2005(4) Crimes 649.

8. Learned counsel for the respondent-State has also not pointed out any material available on record to show that there are reasonable grounds for believing that the petitioner is likely to come into the association of any known criminal if released on bail, or his release will expose him to moral, physical or psychological danger. The order passed is mechanical and without adhering to the provisions of Section 12(1) of the J.J. Act, which specifies that 'the Board shall record the reasons for denying the bail and circumstances that led to such a decision.'

.....

12. The Supreme Court and various High Courts, time and again have reiterated the well settled position of law, that gravity of offence is immaterial in deciding the bail application. Bail of a child in conflict with law cannot be rejected in a routine manner and if the bail is declined, a reasoned order





has to be given by the Board. A juvenile has to be released on bail mandatorily unless and until the exceptions carved out in proviso to Section 12(1) of the J.J. Act, 2015 itself are made out. The exceptions are noted being:-

- a) a reasonable ground for believing that the release is likely to bring the juvenile into association with any known criminal;
- b) his release is likely to expose him to any moral, physical or psychological danger; and
- c) his release would defeat the ends of justice.

.....

14. The third exception namely 'ends of justice being defeated' has to be considered in the context of the welfare of the juvenile, as has been held by the Delhi High Court in Master Abhishek (Minor) Vs. State (Delhi) MANU/DE/0445/2005 : 2005 VI AD Delhi 18."

29. Similar view has been taken by this Court in **Gau v. State of Rajasthan, 2025** reported in **SCC OnLine Raj 2526**. The relevant part of the judgment reads as follows :

"7.The language of Section 12 of the Act of 2015 conveys the intention of the Legislature to grant bail to the juvenile, irrespective of nature or gravity of the offence, alleged to have been committed by him and bail can be denied only in the case where there appears reasonable grounds for believing that the release is likely to bring him into association with any known criminal, or expose him to moral, physical or psychological danger, or that his release would defeat ends of justice.

30. The **High Court of Uttaranchal in X (Juvenile in conflict with law) Vs. State of Uttarakhand** reported in **2025 SCC**





OnLine Utt 157 has also held that the Juvenile Justice Act is a child friendly legislation, and all decisions regarding the child under the Act of 2015 should be based on primary consideration of the best interest of the child. It has been also held that any juvenile in conflict with law is entitled to be released on bail irrespective of the nature of the offence. Bail could be denied to him only on the grounds as provided in the proviso to Section 12 (1) of the Act of 2015. The relevant part of the judgment reads as follows:



8. For a child in conflict with law, every offence is bailable. The CIL is entitled to be released on bail as per Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("the Act"), irrespective of the offence having been classified bailable or non bailable. The only rider is the proviso to Section 12 of the Juvenile Justice Act. The child may not be released on bail, if there are grounds to believe 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 release of the person would defeat the ends of justice.

9. The JJ Act is, in fact, child friendly. The central theme is that the child interest 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 sub section (v) speaks of primary responsibility. According to it, "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".

.....
12. Nothing has been shown that if released the CIL would come into contact with any known criminal or expose him to moral, physical or psychological danger or his release would defeat the ends of justice.



31. The **High Court of Bombay in XYZ v. State of Maharashtra** reported in **2023 SCC OnLine Bom 2790** has held that grounds for denial of bail must be based on material placed on record. The relevant part of the judgment reads as follows:

"6. The mandate of the aforesaid provisions requires that the CCL alleged to have committed a bailable or non bailable offence and apprehended, shall be release on bail with or without surety. The proviso to Section 12(1) puts an exception, where there are reasonable grounds to believe that the release of CCL is likely to bring him into the association with any known criminal or exposed him to moral, physical or sociological danger or his release would defeat the ends of justice. It is therefore, evident that the denial of bail to the CCL shall be for specific reasons akin to above proviso.

.....
9. There is nothing on record to indicate that the CCL is likely to come in association with the known criminals or get exposed to moral, physical or sociological danger or his release would defeat the ends of justice. In the wake of aforesaid circumstances the case is made out to allow this Revision Application and to release the CCL on bail by setting aside the impugned order passed by the Sessions Judge, Beed. Hence following order:"



32. Hence, it is clearly found that notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, bail to a juvenile in conflict with law is governed under Section 12 of the Act of 2015. This Section is equally applicable to all the juveniles in conflict with law, without any discrimination of any nature. Even bail to a juvenile in conflict with law of the age between 16 to 18 years, being accused of heinous offence, is governed by Section 12 of the Act of 2015. Moreover, under Section 12 of the Act of 2015, bail to a juvenile is a rule and the refusal of the same is an exception and it can be denied only on three grounds as provided in the proviso to Section 12(1) of the Act of 2015. It is also found that the nature and seriousness of the alleged offence is not relevant for consideration of bail under Section 12 of the Act of 2015. The term "ends of justice" as used in the proviso to Section 12(1) of the Act of 2015, is drastically different to one as used in general criminal jurisprudence. If the detention of the juvenile at Observation Home or other institutions as contemplated under the Act of 2015 is helpful in the protection, development and rehabilitation of the juvenile, only then it can be said that release of the child would defeat the ends of justice. It is also found that the denial of bail must be reasoned. The grounds of denial must be based on the relevant facts and circumstances, as emerging from the material placed on record. The Social Investigation Report is one of the most important aspects in such material produced. Perusal of such report is mandatory as per Section 15 (2) of the Act of 2015. The Board/Court is required to know not only about the offence





committed by the juvenile but even about the socio-economic conditions/circumstances under which the offence was committed, so that an appropriate order in regard to the juvenile in conflict with law could be passed with the intent to reform and rehabilitate the juvenile and reintegrate him with the mainstream of the society.

33. The Patna High Court in **Rakesh Rai Vs. State of Bihar** reported in **2025 SCC OnLine Pat 374** reaffirmed the mandatory nature of the bail under Section 12 of the Act of 2015, holding that :-

11. Use of the expression- "such person shall be released on bail" in Section 12(1) of the Act also shows that grant of bail to a juvenile is mandatory unless grounds for denial are present.

12. It also emerges that seriousness of the alleged offence or the age of the juvenile are also no relevant considerations for denial of bail under Section 12 of the J.J. Act. Even a child who has completed or is above the age of 16 years and is alleged to have committed a heinous offence is also entitled to get bail under Section 12 of the Act, 2015. There is no classification whatsoever provided in Section 12 of the Act, 2015 in regard to grant of bail. Section 12 is applicable to all juveniles in conflict with law without any discrimination of any nature.

(13 to 15)

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16. As such, if keeping of the child in custody is helpful in his development and rehabilitation or protection, only then it could be said that release of the child would defeat the ends of justice. Moreover, the family is considered as the best and most desirable institution for ensuring welfare and rehabilitation of the child, if the family environment is conducive for the development of the child. In such situation, the release of the appellant on bail would serve and promote the ends of justice better



than detaining the appellant in the observation home.”

34. The abovementioned precedent reinforces the principle that bail for a juvenile is the norm, with its denial being an exception, permissible only when the statutory conditions under Section 12 of the Act of 2015 are met. The mere gravity of the offense is not, by itself, a sufficient ground for refusal, unless it is demonstrated that detention is necessary for the child’s rehabilitation, protection, or to prevent interference with the judicial process. In the present case, the learned ASJ’s reasoning aligns with this settled legal position, as the prosecution failed to establish any statutory ground justifying the denial of bail to the CICL.

35. This Court notes that the Act of 2015 creates a specific framework for bail that departs from the general criminal law principles under the CrPC. The statutory presumption in favor of the bail can only be rebutted if compelling reasons exist.

36. Even if a Child In Conflict With Law is transferred for trial as an adult under Section 18(3) of the Act of 2015, his bail application shall be entertained under Section 12 of the Act of 2015. This view has been consistently discussed and followed in umpteen judgments of various High Courts. In the case of **CCL A Vs. State Nct of Delhi** reported in **(2020) 10 DEL CK 0155**, the Delhi High Court has categorically held that, “even when a child is sent-up for trial as an adult before a Children's Court, the child does not become an adult or 'major', but is only to be treated differently considering the heinous nature of the offence alleged and consequent need for a stricter treatment of the offender,





though still as a juvenile in conflict with law.” The Delhi High Court further observed that, “even though a child may be sent-up for trial before the Children's Court as an adult, there is no provision in the JJ Act that requires any departure from considering the matter of release of such child on bail under section 12.” Similar views have been expressed in the cases of **Siddalinga SN Vs. State of Karnataka** reported in **2023 SCC OnLine Kar 1541**, and **Shubham Alias Bablu Milind Vs. State of Maharashtra**, decided by Bombay High Court while deciding **Bail Application No.2282 of 2021**.

37. The bail to a CICL may be denied if there appears reasonable grounds for believing that his release is likely to bring him into association with any known criminal or expose him to any moral, physical or psychological danger, or his release would defeat the ends of justice.

38. The governing principle of the Act of 2015 is given under Section 3 of the Act, that principle of best interest which is one of the principles, which provides that 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, as per principle (v), 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.

39. In the present case, this fact is not in dispute that the petitioner “US” is a Child In Conflict With Law and at the time of commission of offence, his age was above 16 years and below 18 years. There is no dispute that the offence of murder is a heinous





crime. This fact is also not in dispute that after the preliminary assessment under Section 15 of the Act of 2015, he is facing trial as an "Adult Accused" under Section 18 of the Act before the Children's Court. He has submitted the bail application under Section 12 of the Act of 2015 and the provisions of the same are clearly distinguishable from the provisions contained under Section 439 Cr.P.C. for preferring post arrest bail. Even when a juvenile is to be tried as an adult accused still his bail application is has to be considered under the provisions of Section 12 of the Act of 2015.

40. Section 18(3) of the Act deals with the provisions of conducting trial against a child as an adult accused before the Children's Court, if any order is passed under Section 15 after his preliminary assessment. A juvenile over 16 years who has been tried as an adult accused can receive the sentence upto life imprisonment if found to be involved in heinous crime or like murder etc. but in any case, death penalty is prohibited, however, the punishment and sentence provision would apply only after conducting trial against him as 'an Adult Accused' before the Children's Court, but only in those cases, where after the trial, heinous offence committed by him/ her stands proved. This amendment was brought by the Legislature by way of bringing new provisions under the Act of 2015, but while keeping the Section 12 intact in the Act of 2015, no such distinction was made between the juvenile facing trial before the Juvenile Justice Board or Children's Court. The same provisions are there under Section 12 of the Act of 2015 and the seriousness of the act or offence





committed by the juvenile is not required to be seen at the stage of entertaining his/ her bail application under Section 12 of the Act of 2015.

41. The language of Section 12 of the Act of 2015 conveys the intention of the Legislature to grant bail to the juvenile, irrespective of the nature or gravity of offence, alleged to have been committed by him and the bail can be denied only in the case where there appears reasonable grounds for believing that the release is likely to bring him into association with any known criminal, or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

42. In this context, this Court has also scanned through and perused the orders passed by the courts below.

43. Having carefully examined provisions of the Juvenile Justice Act Vis-à-vis the orders passed by the courts below, this Court does not find any of the exceptional circumstances, to decline bail to a juvenile, as indicated in Section 12 of the Act of 2015, is made out.

Conclusions and directions:-

44. In view of the aforesaid discussion, this revision petition is allowed and the order dated 10.07.2024 passed by the learned Principal Magistrate, Juvenile Justice Board, Kota as well as the order dated 01.08.2024 passed by the Children's Court, Kota declining bail to the petitioner is hereby set aside.

45. It is ordered that the accused-petitioner 'US' S/o 'P' shall be released on bail in FIR No.227/2024 registered at Police Station Mahaveer Nagar, Kota upon furnishing a personal bond by his





natural guardian in the sum of Rs.1,00,000/- each along with a surety in the like amount to the satisfaction of the learned Presiding Officer, Children's Court, Kota; with the stipulation that on all subsequent dates of hearing, he shall appear before the said Court or any other Court, during pendency of the investigation/trial in the case and that his guardian shall look after the delinquent child and secure him away from the company of known criminals.



(ANOOP KUMAR DHAND),J

Aayush Sharma /176