

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE - 1ST
- CUM - SPECIAL JUDGE (SC/ST, NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

Present : Vishwa Vibhuti Gupta

**District & Additional Sessions Judge-1st-cum-
Special Judge (SC/ST, NDPS & CHILDREN ACT)
Aurangabad, Bihar.**

**CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026
ARISING OUT OF MALI PS CASE NUMBER -178/2025
JUVENILE JUSTICE BOARD (JJB) NO. 1435/2025
CIS NO. 04/2026**

Date of Judgment-08.04.2026

**1. Child in conflict with law (CICL) XXXXX, aged below 17 years, Son of Rajesh Paswan, Resident of Village –
Badhki Reganiya, PS-Mali District-Aurangabad(Bihar) Appellant**

VERSUS

The State of Bihar

.....Respondent

Appearances: -

For the Appellant - Raju Kumar, Learned Advocate

For the Respondent - Shri Ram Naresh Prasad (The Additional Public Prosecutor)

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

JUDGMENT WITH SIGNATURE OF THE COURT

Cont....
08.04.2026

1. This Criminal Appeal has been preferred against the Order dated 11.02.2026 passed in Juvenile Justice Board Case No. 1435/2025 by Juvenile Justice Board, Aurangabad relating to the child in conflict with law namely 'A' (imaginary name as per J.J.B) who is in observation home since 20.09.2025. After being aggrieved from the order of rejection of bail as referred above relating to Mali P.S. Case No. 178/2025 dated 19.09.2025 under Sections 69 of the BNS vide order dated 11.02.2026 against the petitioner/appellant.

2. Being aggrieved and dissatisfied with the rejection of his bail prayer (impugned order), this appeal has been preferred u/s 101 of Juvenile Justice (Care and Protection of Children) Act, 2015 pertaining to the child in conflict-with-law/appellant who is in observation home since 20.09.2025 relating to the allegations made in connection with Mali P.S. Case No. 178/2025 dated 19.09.2025 under Sections 69 of the BNS vide order dated 11.02.2026 against the petitioner/appellant. The grounds of appeal are as the learned counsel by pressing the urge, reciting the contents of the prosecution case has contended that the appellant/juvenile was falsely implicated in this case. No appeal on behalf of the appellant has earlier been field either before this court of before the Hon'ble High Court, Patna. It is further argued that the learned JJB ought to consider that the appellant is declared juvenile by the court on 18.10.2025 and found the age of appellant 16 years 03 months and 22 days but his very fact has not been considered. The learned court below ought to consider that the informant is major and has attend the age of maturity and on the the hand the appellant has not attended the age of maturity and hence it is clear that informant committed wrong with the appellant but his very fact has not been considered. The learned court below ought to consider that the appellant remained in jail since long time but this very fact has not been considered. On the basis of social investigation report the juvenile cannot be put in jail fo long time. Both the parties belong to the different cast and the appellant not made any physical relation with her. The case is totally false and concocted. The bail of juvenile cannot be refused holding that the case is serious in nature. It is argued that the parents of the appellant undertakes that the appellant/juvenile cannot will not go int he association with the criminals and they will do proper care in their custody carefully but this very fact has not been considered on the point of bail of juvenile. The appellant has no criminal history. The appellant is in observation home since 20.09.2025. He further submitted that the appellant will never misuse the privilege of bail nor tampered with the evidence. The petitioner-appellant is ready to abide by the terms and conditions of bail.

Taking these grounds, the learned counsel for the petitioner-appellant has prayed to set aside the impugned order of the Juvenile Justice board and grant bail to the petitioner- appellant.

3. The prosecution story on the basis of the written application of the informant Fulmati Kumari(19 years) in brief that the appellant lured the victim on the pretext of marriage and having

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

Cont....
08.04.2026

physical relations and talking to her. When the victim said the appellant to marry, the appellant refused and threatened to go anywhere. Hence, the FIR has been registered.

4. From perusal of the xerox of case record, received from the J.J.B. Aurangabad, it transpires that the applicant/child in conflict-with-law (xxxxx) is aged less than 18 years, at the time of alleged occurrence.

5. The learned counsel for the applicant defying the impugned order as the same is not sustainable under the eye of law, in view of the provisions of Juvenile Justice (Care and Protection of Children) Act, 2015, he has prayed to set aside the order and permit the petitioner on bail taking the grounds mentioned herein before.

6. Per contra the Learned Additional Public Prosecutor opposing the prayer has submitted that the impugned order is correct and does not suffer from any infirmity, he has prayed to uphold the order, as the heinous offence has been committed and he may go into the association of criminals, his release will defeat the ends of justice.

7. Before I consider the rival submissions of the parties, I deem it proper to refer to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which deals with bail to juveniles. Section 12 of the Act read as follows:-

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

(i) 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 persons 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.

(ii) When such person having been apprehended is not released on bail under subsection (I) 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.

(iii) 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

IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

Cont....
08.04.2026

be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

12. From perusal of [Section 12](#) of the J.J. Act, 2015, it clearly emerges that [Section 12](#) of the Act overrides the bail provisions as contained in the [Criminal Procedure Act, 1973](#) or any other law for time being in force. It further emerges that as per [Section 12](#) of the Act, 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.

13. 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 the child who is 16 years or above 16 years of age 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.

16. The J.J. Act is based on the belief that children are the future of the society and in case they go into conflict with 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.

17. As such, if the 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.

18. It also emerges from Section 3 of the Act that Reformatory or Observation Home is only one of the measures contemplated by our legislature for reforming and rehabilitating the delinquent children. 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 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.

19. As such, Section 12 of the J.J. Act is in consonance with the purpose and object of the Act, providing for mandatory bail to juvenile in conflict with law unless the grounds as provided in the proviso to Section 12 (1) of the Act is/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.

IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

Cont....
08.04.2026

20. Hence, under J.J. Act, 2015, a child in conflict with law is not expected to be treated as an adult offender. J.J. Boards/Courts are required to adopt fundamentally a different approach while dealing with 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 to reform and rehabilitate the child, so as to make him a responsible and productive member of the society. The society would get ruined if such children are dealt with punitive approach.

21. Coming to the case on hand, I find that learned J.J. Board has dismissed the application of the appellant for bail on the ground that his guardian has no control over him and is in habit of taking his own decision without proper guidance and he is in the company of wrong people. It has been also observed by learned J.J. Board that if the appellant is released on bail, he would be exposed to physical and psychological danger due to hatred prevailing in the society.

23. However, I find that the observation made by learned J.J. Board as well as learned Children Court are not in consonance with the Social Investigation Report and the statement of the parents of the appellant as made during inquiry proceeding for determination of the age of the appellant.

25. The observation of the Court below that the Appellant is in bad company is also unfounded. No specific information has been provided in the Social Investigation Report in support of such observation. From the statement of the parents of the appellant, it transpires his father is a labour and he is landless. The juvenile has three sisters and thus his family is very poor, struggling for its sustenance and the Appellant has been studying at XIth. During the social investigation, no any specific comment has been received against the applicant.

' 8. The power and scope of Section 12 of the Act was under consideration before a Division Bench of this Court in *Lalu Kumar and Others V. The State of Bihar and Others reported in 2019 (4) PLJR 833*. In paragraphs 84 to 86 of the judgment this Court observed as follows:

"84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of 'best interest', 'repatriation' and 'restoration' of child. The fundamental principles in Section 3 (xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr.P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:- The release is likely to bring that person into association with any known criminal; the release is likely to expose the said person to moral or psychological danger; and the release would defeat the ends of justice.

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

**Cont....
08.04.2026**

"85. In all cases, the Board is required to record its reason, if it refuses to release the child on bail and the circumstances that laid to such a decision. Taking surety is not essential for ordering release of the child on bail. The child may released without surety also. The child may be placed under the supervision of a 'probation officer' or under the care of any 'fit person' after release on bail. It further provides that in case the Court has directed release of the child on bail after fulfilling certain conditions, but the child is unable to fulfill those conditions in the next seven days, the Board shall modify those conditions.

"86. The board is vested with the power to grant bail to any person, who has not completed the age of 18 years irrespective of the nature of offence being 'bailable' or 'non-bailable' or specified in any of three categories of the Act, as petty offences', 'serious offences' and 'heinous offences'."

8. From perusal of the impugned order passed by the learned Juvenile Justice Board, Aurangabad has rejected the bail prayer of the appellant on the ground that *"as per the FIR, the allegation is serious in nature against the appellant in Mali P.S. Case No. 178/2025 dated 19.09.2025 under Sections 69 of the BNS vide order dated 11.02.2026 against the petitioner/appellant. 'A'. Perused the Social Investigation Report, it is clear that CICL was found to be involved in the crime due to lack of regular monitoring and proper guidance by his family members and wrong company. It has also been discovered during the social investigation that Juvenile 'A' was accused and involved in the alleged occurrence of sexual intercourse on false promise of marriage. Furthermore, the juvenile's own confessional statement reveal his involvement in the incident. In light of these facts, the Board rejected the bail application.*

9. In the facts and circumstances, it is vivid from the record at one hand as it appears that the observation made by learned J.J. Board as well as learned Children Court are not in consonance with the Social Investigation Report. The observation of the Court below that the Appellant is in bad company is also unfounded. No specific information has been provided in the Social Investigation Report in support of such observation. There is nothing on record to show that if the Appellant is released on bail, he will be exposed to moral, physical and psychological danger. There is also no material on record to suggest that he was a member of criminal gang and his release would bring him in association with such criminals. As such, I find no ground is made out to deny bail to the Appellant. In fact, I find that release of the Appellant on bail would be in the best interest of the child if he is provided with education and District Administration helps his family as per the State Welfare Schemes to tide over his financial hardship. Hence, the impugned Order dated 11.02.2026 passed by learned Juvenile Justice Board (JJB Case No. 1435/2025), Aurangabad is not sustainable in the eye of law.

10. Therefore, it is ordered that this Appeal is **allowed** on contest. The Order dated 11.02.2026 passed by the learned Juvenile Justice Board, Aurangabad in JJB Case No. 1435/2025 is hereby set

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

Cont....
08.04.2026

aside. The Appellant/CICL is directed to be released on the subject furnishing a bail bond of Rs.10,000/-(Ten thousand) with one surety of the like amount with further condition that one of the bailor should be family member of the juvenile-in-conflict with law with undertaking to take all round care of the appellant/CICL. Further, the such CICL is directed to appear before the Probation Officer, once in a month and the Probation Officer will submit the report as attendance to the learned Juvenile Justice Board, Aurangabad. Accordingly, the Criminal Appeal is hereby allowed.

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st-cum-
Special Judge (SC/ST, NDPS & Children Act)
Aurangabad, Bihar
Dated : 08.04.2026

Today, on dated 08.04.2026, this judgment is pronounced in open Court. The judgment is dictated, corrected, signed by me. The same is sealed and attached with the case record.

(Vishwa Vibhuti Gupta)
District & Additional Sessions Judge-1st-cum-
Special Judge (SC/ST, NDPS & Children Act)
Aurangabad, Bihar
Dated : 08.04.2026

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

**IN THE COURT OF THE DISTRICT AND ADDITIONAL SESSIONS JUDGE-1ST-CUM-SPECIAL JUDGE (SC/ST,
NDPS & CHILDREN ACT)
AURANGABAD (BIHAR).**

CRIMINAL APPEAL (JUVENILE) NUMBER -04/2026

--	--	--