

IN THE COURT OF ADDL. SESSIONS JUDGE – I

-cum-

CHILDREN COURT

Kaimur at Bhabua

Present : BALJINDER PAL, A.S.J.

Criminal Appeal No. 08 of 2026

Bhagwanpur P.S. Case No. 10 of 2025

[Appeal under Section 101(1) of Juvenile Justice

(Care and Protection of Children) Act, 2015]

In the matter of :

‘CICL’ (Name & address withheld)

.....Appellant

V/s

State of Bihar

.....Respondent

Bhabua dated 08th day of June 2026

Present : **Sri Arvind Pandey**, Ld. Advocate on behalf of the Appellant.

Sri Virendra Prasad Singh, Ld. A.P.P. on behalf of the State.

J U D G M E N T

1. Present appeal has been preferred by the appellant (name and address withheld and represented by ‘CICL/appellant’) against the order dated 18.03.2026 passed by Juvenile Justice Board, Bhabhua (hereinafter referred as ‘Board’) in J. Tr. No. 23/2026, FIR No. 10/2026, P.S. Bhagwanpur, offence u/ss 103(1), 3(5) of the BNS and 27 Arms Act whereby and whereunder the learned J.J. Board has rejected the prayer of bail of the appellant u/s 12 of the J.J. Act. The record of the proceedings received from learned J.J.B. The Ld. JJB vide order dated 17.03.2026 determined the age of CICL 16 years 20 days i.e., below 18 years.

2. The appellant/CICL has challenged the impugned order on the grounds that the learned J.J.B. has erred both in fact and law and passed impugned order with wrong inferences and conclusions resulting miscarriage of justice and that the Ld. JJB relied the SIR only stating that there is no control of guardian over the juvenile whereas the appellant has no criminal antecedents and bare perusal of report of SIR it will reveal that appellant is not a member of criminal associates and the appellant is having no criminal background, he is of good behavior but denied the bail by the Ld. JJB and he is lying in protective custody since 02.02.2026.

3. The brief facts of the case as per FIR are that on 22.01.2026 at about 06:20 hours, the informant Radhuvar Chaurasiya recorded his fardbayan at Sadar Hospital, Bhabhua,

before the SHO, Bhagwanpur P.S., stating that on 21.01.2026 at around 20:00 hours, his maternal uncle, Jitendra Chaurasiya, telephonically informed him that his 19-year-old son, Sushil Kumar, had sustained firearm injuries and was being taken to the hospital. Upon reaching Sadar Hospital, the informant found his son dead with a gunshot wound below his left eye, and his uncle disclosed that while they were returning home after closing their shop, two unidentified miscreants on a Pulsar motorcycle—the rider wearing a light-coloured jacket and the pillion rider clad in a saffron turban—intercepted them near a local electronic shop, shot the victim, and fled towards Bhabhua. The victim was declared brought dead by the attending doctors at Sadar Hospital, and during the subsequent autopsy, a .315 bore bullet was recovered from the head of the deceased; the informant further stated that his uncle, Jitendra Chaurasiya @ Mitra, and other relatives can identify the fleeing miscreants upon sight.

4. The Ld. Advocate on behalf of the CICL/appellant submitted that the Ld. JJB has not considered the prayer of the appellant in proper prospective and in accordance with requirement of Section 12 of the JJ Act and has passed the impugned order only stating that the parents have no control over the activities of the CICL rather the CICL was a disciplined child under control of the parents and was himself a victim of misuse by the main co-accused Soheli Khan only due to his previous acquaintance as the co-accused Soheli Khan had met him in a family function so was known to him but he had never disclosed the planning of murder of Prem Paasi by hatching conspiracy with co-accused or Ashish Pandey and the appellant was only trapped to inform the location and movement of target of the co-accuseds whereas the CICL/appellant was neither the liner and nor he had shared common intention or conspired to participate in commission of the alleged offence, and the claim of the juvenility is confirmed from the report of Probation Officer, who after inquiry from co-accused Soheli Khan has opined in para no. 6 of SIR that the CICL/appellant had no hands in gloves with the co-accused persons regarding planning of causing of the occurrence wherein instead of Prem Paasi murder of Sushil Kumar was committed in the occurrence due to trans migration of malice. Unfortunately, Shushil Kumar and was shoot down by co-accused Soheli and Ashish as alleged in FIR, and revealed in the investigation. The Ld. Advocate further submitted that as alleged by the prosecution during investigation the CICL/appellant had only informed the timing of opening and shutting down of the shop Prem Paasi and he was not knowing for what purpose co-accused Soheli Khan had asked him to inform the opening and shutting down his shop by Prem Paasi.

5. The Ld. In-charge Spl. P.P. and the Ld. Advocate of the informant opposed the prayer of the bail of the appellant by submitting that the appellant was a mature person aged more than 16 years having full understanding of the crime and he was member of the conspiracy and acted as liner to inform the co-accused regarding location of Prem Paasi but

unfortunately when the co-accused came to shoot down Prem Paasi due to mistake of identity Sushil Kumar was shoot down by them, and the appellant had acted in furtherance of common intention shared with co-accused and also by hatching conspiracy, is proved from the call details of the accused persons available in case diary and, therefore, the appellant acted and participated in commission of offence with full understating of a mature person and, therefore, he is not entitled to be released on bail as, it would not be in accordance of Section 12 also because not only the release of the CICL/appellant would expose him again with the known criminals but also the ends of the justice would be defeated.

6. After hearing both sides and perusal of the record, prima facie it appears from the material available on record that one Shristi Kumari had love affair with Prem Paasi, Prem Paasi married with some other girl and Shristi Kumari was disturbed by her relation with Prem Paasi and she contacted Soheli Khan to keep away Prem Paasi and said Soheli Khan contacted with Ashish Pandey and as alleged they planned and conspired to murder prem Paasi for which Soheli Khan allegedly contacted the CICL/appellant to give information of movements of Prem Paasi and on the date of occurrence CICL/appellant had given information to Soheli Khan regarding the location and movement of Prem Paasi and on the alleged time of occurrence Soheli Khan and Ashish Pandey came on motorcycle and shoot down Sushil Kumar by mistake of identity.

7. It is alleged by the prosecution that CICL/appellant had acted in furtherance of common intention to murder Prem Paasi and also conspired with Soheli Khan and Ashish Pandey in murder of Prem Paasi but unfortunately by mistake of identity due to covered face Sushil Kumar was shoot down by Soheli Khan whereas the CICL/appellant is claiming that he had no knowledge about the planning of Soheli Khan and Ashish to commit murder of Prem Paasi and said Soheli Khan had never disclosed to appellant, their plan to murder Prem Paasi and it is also the claim of CICL/appellant that due to previous acquaintance. Soheli Khan used the CICL/appellant as a tool for getting the location and movement of Prem Paasi but the CICL/appellant was not a member of the group hatching conspiracy to commit murder of Prem Paasi.

8. It is further submitted on behalf of CICL/appellant that no call details of CICL/appellant is traceable on record that he was in connect with Soheli Khan prior to 21.01.2026 before 04:00 PM and as the Court has queried the ld. APP and the I.O. of the case whether the CICL/appellant was in touch with the co-accused Soheli Khan prior to 21.01.2026 regarding involvement in this case, they could no answer the query of the Court.

9. It is argued on behalf of the CICL/appellant that since the CICL/appellant was student of 10+2 and was also assisting his father in running meat shop and he has no

criminal antecedents or any association with known criminal elements and in this case also he was not active participants in crime but was used as a tool by co-accused Soheli Khan due to his previous acquaintance and trapped to give information regarding movement of Prem Paasi and the number of calls in CDR itself discloses that the appellant was busy in his work that is why he was not picking the calls of Soheli Khan and if he were active participant and had known the planning of the co-accused, he could have pick up the phone call of Soheli Khan immediately. It is also argued by the Ld. Advocate that CICL/appellant was just above 16 years of age and was not sufficient mature to assess why the co-accused Soheli Khan was asking the location and movement of Prem Paasi. It is further argued that after apprehending the CICL/appellant no social background report was prepared by the police officer/CPU and after arrest he was forwarded before the Id. ACJM, from there he was sent to JJB, Kaimur at Bhabhua whereas it was duty of the I.O. that he should have collected the information and filed the SBR before the Id. JJB to reveal the social background.

10. It is further submitted that in social investigation report prepared by the Probation Officer no major adverse information is gathered or reported regarding CICL/appellant and the Probation Officer has found the child disciplined in family and was student of 10+2 and was unsuccessful in inter examination due to lack of interest in study but the neighbours and near-dears have given mixed information regarding conduct of the CICL/appellant but none have disclosed any known criminal elements in touch with the CICL/appellant. It is also argued that the father and brothers of the CICL/appellant and also the other family member are not involved any type of criminal activities but are earning persons and it also came in the report of Probation Officer the CICL/appellant had gone to Delhi for preparation of exams, and due to lack of discipline his personal and educational development was negatively effected but that does not mean that the CICL/appellant was involved in criminal activities and it is further argued that the Probation Officer has suggested cause of the problem due to acquaintance of the CICL/appellant with friend circle of mature boys and lack of discipline and lack of maturity and vigilance in assessing the consequences of the occurrence but the Probation Officer has not disclosed a single person, whom with the CICL/appellant was in company and the opinion of the Probation Officer itself indicates that the CICL/appellant had no idea of the consequences and the CICL/appellant is disclosed by the Probation Officer as immature persons. It is also submitted that during inquiry the Probation Officer had also inquired from prime accused Soheli Khan and the said accused has disclosed that he had only got information of opening and closing time of the shop of Prem Paasi and had not disclosed to CICL the planning of committing murder.

11. It is also argued that for securing the future of the CICL/appellant and his rehabilitation Probation Officer has opined to keep away the CICL/appellant from the company of criminal elements and to restore his education and creational activities and to keep him under control and discipline of the parents by providing the family and educational environment, considering his first mistake.

12.1 After hearing the submissions of both sides as discussed above, it appeared that the CICL/appellant in this case is reported of the age of 16 years 22 days only and as submitted by the Id. Advocate that he was misused as a tool to inform the movement and location of Pram Paasi but he had no knowledge that prime accused Soheli Khan had planned to murder Pram Paasi but by mistake of identity, Sushil Kumar was shoot down by the co-accused Soheli Khan and Ashish Pandey.

12.2 The Probation Officer submitting the SIR has not disclosed the name of any person of senior age group with criminal activity, whom with the CICL/appellant has acquaintance and even not disclosed the criminal element. Except the present case there is no criminal antecedents/criminal activity made available on record. The Probation Officer himself has assessed and opined immaturity and lack of parental control responsible for the activities/mistakes of the CICL/appellant and gave mixed opinion, but as submitted by the Id. Advocate of the appellant and also came in investigation that CICL/appellant was helping hand of his father at meat/fish shop and mere lack of discipline and insensitivity towards future is not only the sole criteria to keep away the juvenile from his natural/family environment and as further opined by the Probation Officer in the recent report dated 21.05.2026 called from Observation Home, no adverse opinion/comment is made by the Probation Officer and suggested the probability of improvement in his conduct by co-operation of the family and conducive environment for reintegration of the CICL/appellant as responsible person in future.

13. The heinousness of the crime is not the sole criteria for consideration of bail u/s 12 of the JJ Act and the three conditions u/s 12 to deny bail to CICL/appellant not appears fulfilled and hence the appeal of the CICL/appellant is allowed and the impugned order dated 18.03.2026 passed by the Id. JJB is set aside. Accordingly, the CICL/appellant is directed to be released on bail on furnishing two sureties bond of Rs. 10,000/-. One of the surety shall be father or mother of the juvenile and should file undertaking to continue the education of the CICL/appellant and not to allow and mix up the CICL/appellant with elements of criminal activity and to keep vigilance on the activities of the CICL/appellant.

The Probation Officer attached with office of the J.J.B., Kaimur at Bhabhua will also supervise the activities of the CICL/appellant and will file the supervision report quarterly before the Id. J.J.B., Kaimur at Bhabhua or the Court dealing with the further proceedings against the CICL/appellant.

The observations made in this order are on the basis of submissions of both parties and appreciation of material available on record and shall not be treated as an opinion in further proceedings against the CICL/appellant and shall be confined for the purpose of disposal of the bail.

The copy of the order shall be sent to the J.J.B., Kaimur at Bhabhua and Probation Officer attached therewith and, thereafter, record of this appeal be consigned to record room after due compliance as per rules.

(Dictated and Corrected)

sd/-

(Baljinder Pal)
Addl. Sessions Judge-I
cum Children Court
Kaimur, Bhabua