

**IN THE COURT OF THE SPECIAL JUDGE I (POCSO)-CUM- DISTRICT &
ADDITIONAL SESSIONS JUDGE VI, PATNA**

A.B.P. No. 1012 of 2026

(Arising out of Pandarak P.S. Case No. 100/2024)

Special (POCSO) Case No. 338/2024

Prince Kumar @ Prince Raj @ Golu ... Petitioner

Versus

The State of Bihar ... Opposite Party

ORDER

dated 05.05.2026

1. The present application has been filed by the petitioner seeking grant of anticipatory bail in connection with Pandarak P.S. Case No. 100/2024, registered under Sections 366(A), 366, 376, 120(B), 34 IPC and Section 4 of the POCSO Act.
2. The prosecution case, in brief, is that the informant alleged that his minor daughter, aged about 16 years, was enticed away by the petitioner on the pretext of marriage when she had gone for coaching. It is further alleged that after some search, it came to light that both the petitioner and the girl had married each other and stayed together for a certain period. On the basis of the written report, the present case was instituted and during investigation further penal sections were added.
3. It is an admitted position that the present case was initially pending before this Court. The petitioner appeared before this Court and sought determination of his juvenility. Upon consideration of relevant documents, this Court vide order dated 16.04.2025 declared the petitioner to be a juvenile, aged about 15 years 8 months and 12 days on the date of occurrence, and accordingly separated his record and transmitted the same to the Juvenile Justice Board, Patna.
4. Learned counsel for the petitioner has advanced detailed submissions in support of the present application. He submits that the petitioner is a young boy with no criminal antecedent and has been falsely implicated due to a misunderstanding arising out of an adolescent relationship, as the materials on record indicate that both the petitioner and the girl were known to each other and had voluntarily left their homes and stayed together, even entering into a marital relationship, thereby negating any element of force, coercion or deceit; it is further contended that the case has been given a criminal colour solely because the girl is a minor in the eye of law, though the surrounding circumstances reflect emotional immaturity rather than criminal intent, particularly when both are of nearly the same age, and therefore treating the petitioner as an offender would defeat the object of child-centric and reformatory legislation; it is also submitted that the petitioner has already cooperated with the process of law by appearing before this Court for determination of juvenility and has neither absconded nor attempted to evade the legal process, and there is no likelihood of tampering with evidence; further, apprehending coercive action despite being a juvenile, reliance has been placed on the order of the Hon'ble Patna High Court in Cr. Misc.No.43991

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of 2024 (Rohit Kumar Yadav vs. State of Bihar) to contend that a juvenile is not absolutely barred from seeking anticipatory bail, and on these grounds it is prayed that the petitioner be granted the privilege of anticipatory bail.

5. On the other hand, learned Spl. PP submits that the victim is admittedly a minor and the offences under the POCSO Act are serious in nature. It is further contended that the petitioner had already appeared before this Court earlier and therefore cannot maintain the present application. It is also submitted that after declaration of juvenility, the appropriate forum is the Juvenile Justice Board.
6. From the rival submissions and materials on record, the following issues arise for consideration
 - i. Whether the present anticipatory bail application is maintainable in view of the earlier appearance of the petitioner before this Court.
 - ii. Whether there exists any real apprehension of arrest after transfer of the case to the Juvenile Justice Board.
 - iii. Whether the statutory scheme of the Juvenile Justice Act governs the present situation.
 - iv. How the Court should approach a case where both the petitioner and the girl are minors of comparable age and appear to have eloped voluntarily.
7. The first issue which arises for consideration is the effect of the earlier appearance of the petitioner before this Court. The record clearly shows that the petitioner had appeared before this Court and invoked its jurisdiction for determination of juvenility. Such appearance cannot be treated as a mere technical or formal appearance. When a person appears before a Court and seeks adjudication on a substantive issue affecting his status, he submits himself to the jurisdiction of that Court. In the considered opinion of this Court, such conduct amounts to surrender in the eye of law.
8. It is true that the earlier order dated 16.04.2025 does not expressly record that the petitioner had surrendered and directed to appear before JJB, Patna. However, non-recording of such fact does not alter the legal consequence of the act itself. The omission, if any, is only a technical or clerical lapse. No substantive right can accrue to the petitioner on the basis of such omission. Accepting such contention would amount to permitting the petitioner to take advantage of a technical defect in the order, which is impermissible in law.
9. The next aspect relates to the apprehension of arrest. After the petitioner has been declared a juvenile and the case has been transmitted to the Juvenile Justice Board, the statutory scheme requires him to appear before the said Board. The apprehension of arrest in such circumstances is neither real nor reasonable, but merely speculative. The jurisdiction for grant of anticipatory bail is founded on the existence of a genuine apprehension of arrest, which is absent in the present case.
10. Learned counsel for the petitioner has relied upon the order passed by the Hon'ble Patna High Court in Cr. Misc. No. 43991/2024 (Rohit Kumar Yadav vs. State of Bihar) to contend that even a juvenile is not precluded from seeking anticipatory bail. This Court has considered the said submission. There can be no dispute that the remedy of anticipatory bail

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is not, in absolute terms, barred merely because the applicant is a juvenile. However, the applicability of such principle depends upon the facts of each case. In the present case, the petitioner had already appeared before this Court and invoked its jurisdiction for determination of juvenility, which amounts to submission to the jurisdiction of the Court. Once such submission has taken place, the foundation for seeking anticipatory bail, which rests on an apprehension of arrest prior to such appearance, ceases to exist. Further, after declaration of juvenility and transmission of the case to the Juvenile Justice Board, the statutory mechanism requires the petitioner to appear before the said Board, which is competent to consider his release under Section 12 of the Juvenile Justice Act. In such circumstances, the apprehension of arrest is neither real nor reasonable. Accordingly, the reliance placed on the aforesaid judgment does not advance the case of the petitioner.”

11. At this stage, it is necessary to consider the statutory framework of the Juvenile Justice (Care and Protection of Children) Act, 2015. The said Act is a beneficial legislation based on the principle of reformatory justice. Section 12 of the Act provides that a child in conflict with law shall ordinarily be released on bail, except in exceptional circumstances. Thus, once the petitioner has been declared a juvenile, the appropriate course is to approach the Juvenile Justice Board, which is vested with the jurisdiction to deal with such matters in a child-friendly and reformatory manner.
12. The jurisdiction exercised by the Juvenile Justice Board, and even by this Court while dealing with matters concerning children, is rooted in the well-established principle of **parens patriae**, where the State acts as a guardian of children who are incapable of taking mature decisions for themselves. The focus, therefore, shifts from punishment to protection, guidance and rehabilitation. The Court, in such matters, is not merely adjudicating rights but is also discharging a protective and supervisory role towards the child. Coming to the most significant aspect of the case, this Court finds that both the petitioner and the girl are minors of approximately the same age. The materials on record prima facie indicate that both had voluntarily left their homes and stayed together and even entered into a marital relationship. This factual background cannot be ignored. It is necessary to clarify that the POCSO Act is a gender-neutral legislation and does not mandate that the minor girl must always be treated as a victim and the boy as an accused. Such classification in the present case arises from the manner in which the allegations have been made in the FIR and the way the prosecution case has been structured. However, the facts of the present case reveal a situation where the conventional distinction between “victim” and “accused” becomes blurred. Both individuals are adolescents, acting under emotional and psychological immaturity. In such circumstances, the matter cannot be viewed solely through the lens of strict criminal liability. While the statutory framework requires that the petitioner be treated as a child in conflict with law, the circumstances equally indicate that the girl is a child in need of care and protection. Both children, in substance, are in a situation requiring guidance, counselling and protective intervention. The Court, while acting under the doctrine of *parens patriae*, is required to adopt a balanced and humane approach so that the protective object of child-centric legislation is not converted into a mechanism of unintended penal consequences in cases arising out of adolescent relationships.

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13. In view of the discussions made above, this Court finds that the petitioner had already surrendered before this Court by virtue of his earlier appearance. The omission to record the same in the earlier order does not confer any benefit upon him. After declaration of juvenility and transfer of the case to the Juvenile Justice Board, there is no real apprehension of arrest. The statutory remedy lies before the Board, which is empowered to deal with the matter in accordance with the reformatory principles of the Juvenile Justice Act. The facts of the case further indicate that both the petitioner and the girl are minors of comparable age and appear to have acted under emotional immaturity, requiring a child-centric approach.
14. Accordingly, the present anticipatory bail application is **rejected as not maintainable**. However, it is observed that in the event of the petitioner appearing before the Juvenile Justice Board, his case shall be considered in accordance with the mandate of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, keeping in view the reformatory object of the legislation. It is further observed that both the alleged victim and the accused are minors of comparable age and the material suggests a voluntary relationship, the competent authority shall deal with the matter in a child-centric manner, guided by the principle of *parens patriae*, ensuring care, protection, counselling and appropriate rehabilitation of both children in accordance with law. With aforesaid observation, petition is disposed.
15. **Let a copy of this order be transmitted to the Juvenile Justice Board, Patna.**

(Dictated & Corrected)

Sd/.

(Rajeev Ranjan Raman)

Special Judge I(POCSO)-cum-
District & Additional Sessions Judge-VI
Patna

05.05.2026