IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.820 of 2025

Arising Out of PS. Case No.-877 Year-2024 Thana- HAJIPUR SADAR District- Vaishali

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Banti Kumar @ Aryan Raj @ Hunter Yadav son of Sunil Ray Resident of Village -Dighi Kala Purvi PS- Sadar, Dist- Vaishali Under Guardianship of his father namely Sunil Ray S/o - Kamal Ray, Resident of village- Dighi Kala Purvi, Ps- Sadar, Dist- Vaishali

... ... Petitioner/s

Versus

1. The State of Bihar
2. Avinash Kumar, PTC Posted at Sadar PS, Hajipur at Vaishali Bihar

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Bhola Prasad, Adv.
For the Respondent/s : Mr.Shailendra Kumar, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 18-11-2025

Heard learned counsel for the petitioner and the learned Spl.P.P. for the State.

02. The instant revision petition has been filed against the order dated 16.06.2025 passed by the learned District & Additional Sessions Judge-I, Vaishali at Hajipur in Criminal Appeal No. 10 of 2025 arising out of Hajipur Sadar P.S. Case No. 877 of 2024 registered for the offences under Section 317(5) of the BNS and Section 21(1-b)a, 26 of the Arms Act whereby and whereunder the prayer for bail of the petitioner has been refused and the appeal has been dismissed. The said appeal was preferred against the order dated 22.04.2025 passed by learned J.J. Board, Vaishali at Hajipur passed in G.R. No. 7337 of 2025 corresponding to J.J.B. No. 415 of 2024 arising out of Hajipur Sadar P.S. Case No. 877 of 2024.

03. The prosecution case is based on the written report of informant Avinash Kumar, wherein he stated that a motorcycle rider tried to run away taking a U-turn on seeing the police party. He was apprehended and he is the present petitioner. From search of the petitioner, a loaded country made *katta*, one live cartridge and a white colour motorcycle without any number plate were recovered and seized. Subsequently, the petitioner was declared child in conflict with law vide order dated 10.01.2025 passed by the learned Juvenile Justice Board, Vaishali at Hajipur.

04. It further transpires that an application was filed before the learned Juvenile Justice Board seeking bail on behalf of the petitioner but the same was dismissed by the learned Juvenile Justice Board vide order dated 22.04.2025. Against this rejection order, the petitioner preferred Criminal Appeal No. 10 of 2025 before the Court of learned Additional Sessions Judge-1st, Vaishali at Hajipur and the said appeal was also dismissed vide order dated 16.06.2025 finding no illegality in the order dated 22.04.2025 by the learned J.J. Board, Vaishali at Hajipur.

05. Learned counsel for the petitioner at the outset submits that the petitioner is in custody since 28.11.2024. The petitioner has been accused in altogether four cases but his name

appeared in these cases only after he was apprehended in the present case. Learned counsel further submits that the learned Sub-ordinate Courts committed error in passing the impugned orders and the said orders are bad in the eyes of law. The petitioner was apprehended from the house but the said fact was not taken into consideration by the Courts below. The learned Courts failed to appreciate the fact that the seizure list has been prepared without compliance of the provisions of law and the witnesses are members of raiding party. Learned counsel next submits that the learned Sub-ordinate Courts also failed to appreciate that the provision of Juvenile Justice Act is reformatory in nature and its main concern is welfare of children. The Courts below also failed to take into consideration the paramount interest of the petitioner who is a child in conflict with law. Though the learned Appellate Court came to the conclusion that the petitioner is incorrigible but there is no basis for such inference. Merely because of the fact that the petitioner has been shown to be accused in four cases, this inference was drawn but the petitioner has been made accused in all the four cases after his arrest in the present case. Similarly, there is no basis for coming to a conclusion that if the petitioner is enlarged on bail, he will come in bad association or there is probability of

his coming into association with bad elements of the society. Learned counsel further submits that father of the petitioner has undertaken that he would take every effort to maintain good character and behavior of the son and on his undertaking the petitioner has been granted bail in Rajpakar P.S. Case No. 412 of 2024 and Industrial Area P.S. Case No. 163 of 2024.

06. Learned Spl.P.P. for the State opposes the submission made on behalf of the petitioner/child in conflict with law and submits that there is no infirmity in the orders of the learned trial court as well as learned Appellate Court. Both the Courts considered the Social Investigation Report and came to a finding that the petitioner has not been keeping good company and have swerved from the mainstream and if he is released on bail he would join bad company. Therefore, considering the interest of the petitioner/child in conflict with law to be paramount it would not be proper to release him on bail.

07. I have given my thoughtful consideration to the rival submission of the parties. It appears from the record that the main consideration for refusal of bail of the petitioner/child in conflict with law has been the apprehension that he would again come in company of bad elements. It also appears that in

paragraph no. 39 a suspicion was raised that the petitioner was being used by some gang. If there is no material to substantiate the claim against the petitioner/child in conflict with law, such inference could not be correct unless fully supported with hard facts.

08. Now 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.*
> *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 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. The cumulative reading of these two provisions makes it amply clear that it is the interest of the child which is paramount and orders of the Court should be towards this end only. If the father of the petitioner/child in conflict with law undertakes that he will look after the petitioner and would not allow him to fall in bad company, the release of the petitioner could be considered under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 as there are no other hindrances.

11. Merely because petitioner has been made accused in four cases, it cannot be presumed that he has become incorrigible and is not amenable to reformatory steps. Moreover the main purpose of enactment of Juvenile Justice Act, is the reformation of children in conflict with law. Therefore, the petitioner could be given an opportunity to join the mainstream.

12. Having regard to the aforesaid discussion, the instant revision is allowed and petitioner/juvenile in conflict

with law shall 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 J.J.Board, Vaishali at Hajipur/concerned court, in connection with Hajipur Sadar P.S. Case No. 877 of 2024, subject to the following conditions:

(i) One of the bailors will be the father 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.

13. Accordingly, the order dated 16.06.2025 passed by the learned Appellate Court and the order dated 22.04.2025 passed by learned J.J.Board, Vaishali at Hajipur are set aside and hence, the present revision petition stands allowed.

(Arun Kumar Jha, J)

Anuradha/-

AFR/NAFR	-
CAV DATE	-
Uploading Date	19.11.2025
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