

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Revision No. : 665 of 2025

Reserved on : 01st January, 2026

Decided on : 06th January, 2026

ABC (Juvenile)

...Petitioner

Versus

State of Himachal Pradesh

...Respondent

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

*Whether approved for reporting?*¹ **Yes.**

For the petitioner : Mr. Dheeraj K. Vashisht, Advocate.

For the respondent : Mr. Tejasvi Sharma & Mr. Mohinder Zharaick, Additional Advocates General with Ms. Ranjna Patial, Deputy Advocate General.

Virender Singh, Judge

Petitioner-ABC, Child in Conflict with Law, (hereinafter referred to as 'the CCL') has filed the present criminal revision petition, under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the JJ Act'), read with Sections 438 and 442 of Bharatiya Nagarik Suraksha Sanhita (hereinafter referred to as 'the BNSS'), with a prayer to set aside the order, dated 24.03.2025, Annexure

¹ *Whether Reporters of local papers may be allowed to see the judgment?* Yes.

P-2, passed by Juvenile Justice Board, Una (hereinafter referred to as the JJB) and Order dated 17.05.2025 (Annexure P-3), passed by the Court of learned Sessions Judge (Children's Court) Una, District Una (hereinafter referred to as 'the appellate Court'), with a prayer to release the petitioner on bail, in a case arising out of FIR No.59/2025, dated 26.02.2025, under Sections 140(3), 103 and 61(2) of the Bharatiya Nyaya Sanhita (hereinafter referred to as 'the BNS').

2. According to the applicant, she is innocent person and has falsely been shown to be involved in the crime in question. The allegations against her are that she, along with Manpreet Singh, Vansh Sharma, Keshav Thakur, Shivam @ Chhotia and Ritik and others had beaten to death to Harpreet Singh @ Jiya.

3. During investigation, the date of birth of the CCL was found to be 25.03.2007. Thereafter, she was produced before the Principal Magistrate, JJB, from where, she was ordered to be sent to Correctional Home, Samoor Kalan on 01.02.2025.

4. Thereafter, the CCL has moved an application for bail before the JJB, which was contested by the prosecution, by taking the plea that the CCL is very clever person and has committed a heinous crime and there is lot of resentment in the society on account of the said crime. As such, the application has been dismissed on 24.03.2025.

5. Against the said order, the CCL has preferred the appeal before the learned appellate Court, which has also been dismissed, vide order dated 17.05.2025. Now, the CCL is before this Court, by way of the present criminal revision petition.

6. Investigation, in the present case, is complete. Report against the CCL has been presented before the JJB and inquiry has been initiated, against the CCL, as per Section 15 of the JJ Act.

7. The JJB, on the basis of the preliminary assessment, has submitted the case to the appellate Court, vide order dated 28.06.2025, by holding that the trial of CCL is to be conducted, as an adult. The said order has been assailed before the appellate Court, which was set

aside, vide order dated 12.09.2025 and the case was remanded back to the JJB, for fresh decision.

8. Highlighting the fact that the object of the bail is neither punitive nor preventive and the deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand trial when called upon, a prayer has been made that the order dated 24.03.2025 (Annexure P-2) passed by the learned JJB, as upheld by the learned appellate Court, vide order dated 17.05.2025 (Annexure P-3) is not sustainable in the eyes of law and the same may kindly be set aside and the CCL may kindly be released, on bail, as there is nothing on the file to demonstrate that there are exceptional circumstances, as provided under Section 12 of the JJ Act and according to the learned counsel for the CCL, in the absence of any exceptional circumstance, the relief, as claimed, in the criminal revision petition, cannot be denied to her.

9. Per contra, Mr. Tejasvi Sharma and Mr. Mohinder Zhariack, learned Additional Advocates General, assisted by Ms. Ranjna Patial, learned Deputy Advocate

General, have supported the order, passed by the appellate Court, as, according to them, the involvement of the CCL has been found, in a heinous offence. As such, a prayer has been made to dismiss the petition.

10. When put to notice, the police has filed the status report, disclosing therein, that on the intervening night of 25th and 26th February, 2025, complainant Niranjan Singh, along with other villagers appeared before the police and moved a complaint that from 23.02.2025, his son Hardeep Singh @ Jiya has not returned back to home and his mobile No.85807-14833, is also found to be switched off, upon which, rapat No.7, dated 26.02.2025, regarding his missing was lodged.

10.1. Thereafter, said Niranjan Singh, during day time, again appeared before the police and shown a video from his mobile phone, showing two young men beating his son Hardeep @ Jiya, on the rear seat of the car and from the front seat their activities were being video-graphed and from driving seat voice of one person is being heard. In the said video, blood was found to be oozing out from the shoulder of Hardeep Singh @ Jiya. He has identified the

persons beating his son, as Vansh @ Bantu and Manpreet Singh @ Manni.

10.2. On the basis of the above facts, the complainant has moved a complaint, disclosing therein, that his son was kidnapped by few boys on 23.02.2025 and a video was sent to the mobile of one Keshav, after viewing the same, he came to know about the fact that his son was with Manpreet Singh, Vansh and CCL. According to him, these persons had injured his son and whereabouts of his son are not known to him.

10.3. According to the complainant, in the conspiracy, Manpreet Singh, Vansh Sharma, CCL, Keshav Thakur, Shivam @ Chhotiya, Ritik and others are involved, as such, he has prayed that action be taken against them.

11. On the basis of the above fact, the police registered the FIR, in question, and criminal machinery swung into motion.

12. During investigation, CDR, CAF and Tower Locations of the mobile phones of CCL, Vansh and Manpreet Singh were obtained. When, the CDR and tower locations were analyzed, it was found that CCL was in

touch with deceased and accused Vansh from 19.02.2025, whereas, accused Vansh @ Bantu, was in constant touch with accused Manpreet Singh @ Manni and Manpreet Singh @ Manni was in touch with Taranjeet Singh. As such, CDR and Tower location of mobile No.83530-86770 of Taranjeet Singh was obtained.

13. As per the CDRs of the mobile phone of deceased, on 23.02.2025, at about 9.01 p.m., his phone was found to be switched off at Baba Bedi Kila Una, at that time the Tower location of CCL was at Kila Baba Bedi Sahib, Una. As per the CDR, on 23.02.2025, the location of accused Manpreet Singh, and Taranjeet Singh was found at Jol Upper Arniyala, from 10.06 p.m. to 11.32 p.m., where the mobile phone of deceased was switched off. Thereafter, CCL was found in regular contact with accused Vansh.

14. On the basis of the investigation, the police filed charge-sheet against the accused persons, including the CCL.

15. Perusal of the record shows that the JJB has declined the relief to the CCL, only on the ground that she

is involved in a heinous offence and investigation is still in progress. Relevant paragraph 9 of the order dated 24.03.2025, is reproduced as under:-

"9. It is imperative to recognize that the alleged offence committed by the juvenile is of a grave and heinous nature. The investigation is still in progress and there is a need to ensure both the

security of the juvenile and the integrity of the investigative process. Moreover, considering the unrest in society and the seriousness of the crime, it is crucial to maintain a protective approach toward the juvenile while allowing the investigation to proceed efficiently."

16. The learned appellate Court has also declined the relief, highlighting the report of the police, in which, it has been mentioned that there is unrest in the society about the seriousness of the crime committed by the CCL and other accused.

17. In this factual background, the material question, which arises for determination before this Court is about the fact whether the ground 'heinous crime' is sufficient to decline the relief to the applicant, as done by the learned JJB.

18. As stated above, the bail application of CCL was dismissed. In this regard, it is apt for this Court to

reproduce the provisions of Section 12 of the JJ Act, 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 available 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.

19. The Legislature, in its wisdom, has used the word 'shall' in Section 12(1) of the JJ Act. The use of word 'shall' by the Legislature, in its wisdom, raises the presumption that a particular provision is mandatory.

20. As per provisions of Section 12 of the Act, the JJB is under the legal obligation to release the CCL with or without surety. However, as per the latter part of Section 12(1) of the Act, certain circumstances have been provided, under which, there is prohibition for releasing the CCL on bail. Those grounds are : (a) that the release is likely to bring him into association with any known criminal; (b) that release is likely to expose him to moral, physical, or psychological danger and (c) that release of the juvenile is in conflict with law, would defeat the ends of justice.

21. Merely, reiterating the above three grounds do not fulfill the ingredients of the term 'reasonable grounds', as from the language of Section 12 of the Act, it appears that intention of the Legislature is to grant bail to the CCL, irrespective of the nature or gravity of the offence, alleged to have been committed by him.

22. The exceptions, under which, the bail can be denied, have elaborately been discussed by the Punjab and Haryana High Court at Chandigarh in **Manmohan Singh v. State of Punjab**, reported in **PLR (2004) 136 P & H 4**. Relevant paragraphs 7 and 8 of the judgment are reproduced, as under:-

"7....The reasonable grounds for believing that his release is likely to bring 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, should be based upon some material/evidence available on the record. It is not a matter of subjective satisfaction but while declining bail to the juvenile on the said ground, there must be objective assessment of the reasonable grounds that the release of the juvenile is likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice..."

*8. In **Sanjay Kumar**'s case (supra) it has been held by the Allahabad High Court that every juvenile whatever offence he is charged with, shall be released on bail but he may, however, be refused bail if there appears reasonable ground for believing that the release is likely to bring him into association with the any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice and that the existence of such ground should not be mere guess work of court but it should be substantiated by some evidence on record."*

23. Even, considering the non obstante clause, the provisions of the Act will override the provisions of Cr.PC, regarding bail and the JJB is bound to release the person on bail or put him under the supervision of a Probation Officer or under the care of any fit person.

24. The Hon'ble Apex Court in ***Criminal Appeal (arising out of Special Leave Petition (Crl.) No.9566/2024)***, titled as ***Conflict with Law V versus The State of Rajasthan and Anr.***, decided on 14.08.2024, has elaborately discussed the proviso to sub-section (1) of Section 12 of the JJ Act. Relevant paragraphs 6 to 10 of the aforesaid judgment are reproduced, as under:

"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.

8. Our attention is invited to Psychological Assessment Report of the Juvenile. The report records that the juvenile does not belong to high risk category and against the column "worry list of child" it is mentioned that there was "no worry". The report is signed by a qualified Clinical Psychologist.

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."

25. While deciding such type of question, the provisions of Section 3 of the Act assume significance. Those provisions are reproduced, as under:-

"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.

(viii) *Principle of non-stigmatising semantics:* Adversarial or accusatory words are not to be used in the processes pertaining to a child.

(ix) *Principle of non-waiver of rights:* No waiver of any of the right of the child is permissible or valid, whether sought by the child or person acting on behalf of the child, or a Board or a Committee and any non-exercise of a fundamental right shall not amount to waiver.

(x) *Principle of equality and non-discrimination:* There shall be no discrimination against a child on any grounds including sex, caste, ethnicity, place of birth, disability and equality of access, opportunity and treatment shall be provided to every child.

(xi) *Principle of right to privacy and confidentiality:* Every child shall have a right to protection of his privacy and confidentiality, by all means and throughout the judicial process.

(xii) Principle of institutionalization as a measure of last resort: A child shall be placed in institutional care as a step of last resort after making a reasonable inquiry.

(xiii) Principle of repatriation and restoration: Every child in the juvenile justice system shall have the right to be re-united with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.

(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

(xv) Principle of diversion: Measures for dealing with children in conflict with law without resorting to judicial proceedings shall be promoted unless it is in the best interest of the child or the society as a whole.

(xvi) Principles of natural justice: Basic procedural standards of fairness shall be adhered to, including the right to a fair hearing, rule against bias and the right to review, by all persons or bodies, acting in a judicial capacity under this Act.

26. The cumulative effect of the above provisions, contained in Section 3 of the Act, is that the CCL shall be presumed to be innocent of any *mala fide* or criminal intent up to the age of 18 years and all decisions, regarding the CCL, shall be based on the primary consideration that they are in the best interest of the child and to help the child in developing full potential.

27. There is nothing on the record, which brings the case of the CCL into exceptions, as carved out under the proviso to Section 12 of the JJ Act. There is nothing in Section 12 of the Act, which demonstrates the legislative intent to treat the offence, for which, the CCL has been named, with a different treatment.

28. A bare reading of Section 12 of the JJ Act, mandates that the JJB is under the legal obligation to release the CCL with or without surety and exceptions have been carved out, by way of proviso i.e., the reasonable grounds for believing that his/her release is likely to bring 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.

29. It has rightly been argued by learned counsel for the CCL that without recording the findings, qua the fact that in case, the CCL is released on bail, the CCL would come in contact of any known criminal or expose such juvenile to moral, physical or psychological danger, the approach of the learned JJB is not sustainable in the

eyes of law. Even, the learned appellate Court has fallen into the error.

30. As per Section 12 of the Act, relief can only be declined, if the material is before the JJB to decline the relief, as per proviso added to Section 12(1) of the Act.

31. At the time of deciding the application for bail, the JJB is not supposed to discuss the merits/de-merits of the case to ascertain the guilt/innocence of the CCL. In the absence of any material to justify in bringing the case of the CCL under the definition of 'exceptional circumstances', as defined in proviso of Section 12 of the Act, the said order is not sustainable, in the eyes of law.

32. With these observations, this Court is of the view that the order passed by the JJB, as upheld by the learned appellate Court, is not sustainable in the eyes of law, and orders, under challenge, san correctness and legality.

33.. Consequently, the present criminal revision petition is allowed and the order, passed by the learned JJB, as upheld by the learned Appellate Court, is set aside

and the CCL is ordered to be enlarged on bail, subject to the following conditions:-

- (i) *Natural guardian/father will furnish an undertaking that upon release of the CCL on bail, she will not permit her to go into contact or association with any known criminal or allowed to be exposed to any moral, physical, or psychological danger.*
- ii) *Natural guardian/father will ensure that the juvenile will not repeat the offence.*
- (iii) *Natural guardian/father will further furnish an undertaking to the effect that the CCL will pursue his studies at the appropriate level.*
- (iv) *CCL as well as the natural guardian/father will report to the Probation Officer on 3rd day of every calendar month commencing from February, 2026, and if during any calendar month the 3rd day falls on a holiday, then on the following working day.*
- (v) *The Probation Officer will keep a strict vigil on the activities of the juvenile and regularly draw up his social investigation report that would be submitted to the concerned Juvenile Justice Board, on such a periodical basis as the Juvenile Justice Board may determine.*
- (vi) *The CCL shall not leave the country, without prior permission of the Court.*

34. With these observations, the petition stands disposed of, so also the pending application(s), if any.

35. Any of the observations made herein above shall not be taken as an expression of opinion on the merits of

the case as these observations are confined only to the disposal of the present bail application.

36. Record be returned to the quarter concerned under proper receipt.

(**Virender Singh**)

January 06, 2026 (ps)

Judge