

(2024) 04 PAT CK 0037

In the Patna High Court

Case No : Criminal Revision No. 557, 627, 655, 665, 687, 689, 731, 743, 769, 779, 793, 811, 821, 613 Of 2023, 14, 66, 72, 95, 117, 120, 127, 152, 156, 158, 178 Of 2024

Juvenile ?X?

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision : 04-04-2024

Acts Referred:

Juvenile Justice (Care and Protection of Children) Model Rules, 2016 — Rule 2(xvi), 2(xvii)

Code Of Criminal Procedure, 1973 — Section 53A, 374(2)

Indian Penal Code, 1860 — Section 34, 120B, 147, 148, 149, 201, 302, 307, 323, 341, 353, 363, 364, 365, 366A, 376, 376D, 376DA, 379, 392, 394, 395, 399, 402, 412, 413, 414, 504, 506

Protection of Children from Sexual Offences Act, 2012 — Section 4, 6, 8, 17

Juvenile Justice (Care and Protection of Children) Act, 2015 — Section 3(i), 12, 12(1), 13(i)(ii), 17, 18, 101

Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 — Section 3(1)(r), 3(1)(s), 3(2)(r), 3(2)(s), 3(2)(v), 3(2)(va)

Arms Act, 1959 — Section 25(1B)(a), 26, 27, 35

Citation : (2024) 04 PAT CK 0037

Hon'ble Judges : Bibek Chaudhuri, J

Bench : Single Bench

Advocate : Arvind Kumar Singh, Shailendra Kumar, Bhaskar Shankar, Sadanand Paswan, Hans Lal Kumar, Dinesh Singh, Sunil Kumar Pathak, Ram Naresh Ray, Balram Kapri, Nirmal Kumar Sinha, Leelawati Kumari, Arun Kumar Pandey

Judgement

1. These batch of Revisions are filed, challenging the orders passed by the Children's Court rejecting bail of the Child in Conflict with Law (hereinafter referred to as 'CICL'), who have been made accused in different criminal cases concerning heinous offences.

For the purpose of proper adjudication of the case, it is appropriate to narrate the factual background in the following words:-

Reg. Cr. Revision No. 613 of 2023

In connection with Dumariya P.S. Case No. 51 of 2022, the petitioner was aged about 15 years 7 months 29 days. He has been in custody on and from 3rd of April, 2022 in connection with the above-named case which was registered under Sections 302, 376DA and 34 of the IPC and Sections 4, 6 and 17 of POCSO Act.

The CICL prayed for bail before the Juvenile Justice Board (hereinafter referred to as 'JJB'), Gaya, which was rejected on 13th of February, 2023. Against the aforesaid order, the CICL through his respective father, filed an appeal under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015 before the Children's Court at Gaya. The Court of Appeal also rejected his prayer for bail vide impugned order dated 2nd of May, 2023.

Reg. Cr. Revision No. 557 of 2023

The instant revision has been filed by the CICL under the guardianship of his mother, challenging legality and propriety of the order dated 7th of July, 2023, passed by the learned Special Judge, Children's Court, Aurangabad in Cr. Appeal No. 36 of 2023, arising out of Amba P.S. Case No. 83 of 2023, JJB No. 959 of 2023, whereby and whereunder, the learned Judge, in appeal, dismissed the bail and affirmed the order of rejection of bail passed by the Jurisdictional JJB.

It is submitted by the petitioner that co-accused was granted bail in connection with the same case by a Coordinate Bench of this Court on 9th of November, 2023.

It will not be out of place to mention that CICL was arrested in connection with above-mentioned P.S. Case for the offence punishable under Sections 302 and 34 of the IPC read with Section 3(1) (r) (s) and 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Reg. Cr. Revision No. 627 of 2023

The instant Revision is filed by the mother of the CICL, challenging the order of rejection of Bail by the learned Special Judge, Children's Court, Sitamarhi in Cr. Appeal No. 56 of 2023. The CICL was booked for committing offence under Sections 414 and 413 of the Indian Penal Code, in connection with Sitamarhi P.S. Case No. 205 of 2023.

The petitioner is in custody since 16th of March, 2023.

Reg. Cr. Revision No. 655 of 2023

The instant Revision is filed being aggrieved by and dissatisfied with the order dated 23rd of August, 2023, passed in Cr. Appeal No. 107 of 2023, by the learned Special Judge, Children's Court, Patna, affirming the order, dated 13th of June, 2023, passed by the learned JJB, Patna in JJB P.S. Case No. 469 of 2020, arising out of Jakkanpur P.S. Case No. 796 of 2019, registered for the offences under Section 302 of the Indian Penal Code and Sections 25(1-B)a and 26/27 of the Arms Act.

The petitioner is in custody for about 4 years.

Reg. Cr. Revision No. 665 of 2023

The instant Revision is filed by CICL himself, challenging the legality, validity and propriety of the order, dated 9th of August, 2023, passed in Cr. Appeal No. 14 of 2023 by the learned Additional Sessions Judge, 1st Court-cum-Children's Court, Banka. The CICL was arrested in connection with Banduwa Kurawa P.S. Case No. 37 of 2023, corresponding to G.R. No. 1202 of 2023, for the offences punishable under Sections 302 and 392 of the Indian Penal Code and Section 27 of the Arms Act. However, later on, Sections 34 of the IPC and Sections 25(1-b)a, 26, 27 and 35 of the Arms Act and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were also added. Prayer for bail of the petitioner was rejected by the Court of Appeal in exercise of his jurisdiction under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'said Act') vide order, dated 15th of June, 2023.

Reg. Cr. Revision No. 687 of 2023

The petitioner/CICL was arrested in connection with Fesar P.S. Case No. 37 of 2022, under Sections 341, 323, 325, 307, 34, 504, 506 and 379 of the IPC along with his father and uncle. The petitioner prayed for regular bail before the JJB, Aurangabad. In JJB Case No. 932 of 2023, prayer for bail was rejected. The petitioner filed an appeal being Cr. Appeal No. 41 of 2023 in the Court of learned Special Judge, Children's Court, Aurangabad. The learned Appellate Court dismissed the appeal and affirmed the order of the JJB. The petitioner has assailed the said order of the Appellate Court on various grounds, specially on the ground that the father and uncle of the petitioner have already been granted bail for the same offence.

Reg. Cr. Revision No. 689 of 2023

This revision is directed against an order, dated 18th of September, 2023, passed by the learned Special Judge, Children's Court at Muzaffarpur in Cr. Appeal No. 24 of 2023, whereby and whereunder, the learned Appellate Court affirmed the order dated 2nd of August, 2023, passed by the JJB, Muzaffarpur, in JJB Case No. 1134 of 2023, arising out of Brahmpura P. S. Case No. 103 of 2023, rejecting the prayer for bail, made by the petitioner. The petitioner was booked for committing offence under Sections 363, 366A and 302 of the IPC.

Reg. Cr. Revision No. 731 of 2023

The petitioner/CICL has filed the instant Revision through his mother and natural guardian, challenging the legality and propriety of the order, dated 16th of September, 2023, passed by the learned District and Sessions Judge cum Special Judge, Children's Court at Patna in Cr. Appeal No. 129 of 2023, arising out of JJB Case 92 of 2022. The learned Special Judge, Children's Court was pleased to dismissed the appeal and affirmed the order of rejection of bail passed by the JJB. The petitioner was booked in connection with Maner P.S. Case No. 911 of

2021, dated 10th of November, 2021, under Sections 394 and 302 of the IPC.

It is stated by the petitioner that he was minor on the date of commission of the alleged offence.

Reg. Cr. Revision No. 743 of 2023

The CICL filed the instant Revision through his natural guardian/father, assailing the order dated 22nd of September, 2023, passed in Criminal Juvenile Appeal No. 18 of 2023, by the Additional Sessions Judge, 1st Court-cum-Children's Court, Saran at Chapra, whereby and whereunder, the learned Judge in appeal under Section 101 of the said Act rejected the prayer for bail of CICL who was arrested in connection with JJB Case No. 522 of 2023, arising out of Marhowrah P.S. Case No. 263 of 2023, under Sections 363, 302, 201 and 120B of the IPC.

Reg. Cr. Revision No. 769 of 2023

In the instant Revision, the petitioner challenged the legality and propriety of the Appellate Court's order of rejection of the prayer for bail. The CICL was arrested in connection with Mahila P.S. Case No. 22 of 2023, registered for the offences punishable under Section 376, 323, 504, 506 and 34 of the IPC and Section 4 of the POCSO Act, 2012.

Reg. Cr. Revision No. 779 of 2023

The instant Revision application has been filed, assailing the order of the Cr. Appeal No. 12 of 2023, filed under Section 101 of the said Act, whereby and whereunder, the learned Additional Sessions Judge, 1st Court cum Special Judge, Children's Court, Supaul, vide order, dated 9th of June, 2023, rejected the prayer for bail of the CICL and dismissed the appeal. The CICL was made an accused in Marauna P.S. Case No. 4 of 2023, corresponding the G.R. Case No. 103 of 2023, for the offences punishable under Sections 395 and 412 of the IPC.

Reg. Cr. Revision No. 793 of 2023

The instant Revision is directed against the judgement, dated 30th of October, 2023, passed in Cr. Appeal No. 51 of 2023, arising out of Nabinagar P.S. Case No. 340 of 2023 / JJB No. 1098 of 2023, whereby and whereunder, the Court of Appeal rejected the prayer for bail of the CICL. In connection with the aforesaid Nabinagar P.S. Case No. 340 of 2023, the CICL was arrested for committing offence under Sections 302, 201 and 120B of the IPC.

Reg. Cr. Revision No. 811 of 2023

The instant Revision has been filed, assailing an order, dated 2nd of November, 2023, passed by the learned Additional Sessions Judge, 1st Court-cum-Children's Court, Bettiah, West Champaran in Cr. Appeal No. 50 of 2023, whereby and whereunder, the learned Appellate Court affirmed the order of the JJB, rejecting the prayer for regular bail of the CICL, who was arrested in connection with Beetiah (Mahila) P.S. Case No. 17 of 2022, under Sections 376D, 341, 323, 325

and 307 of the IPC and Sections 4 and 6 of the POCSO Act. The CICL is in custody since 9th of August, 2022. It is pleaded that at the time of commission of alleged offence, CICL was below 16 years of age.

Reg. Cr. Revision No. 821 of 2023

The petitioner has challenged the order passed in Cr. Appeal No. 40 of 2023, under Section 101 of the said Act, dated 10th of November, 2023, whereby and whereunder, the learned Special Judge, Children's Court, Kaimur (Bhabua) rejected the prayer for bail of the CICL while affirming the order of the JJB. The petitioner/CICL was arrested in connection with Kaimur (Bhabua) Cyber P.S. Case No. 14 of 2023 registered under Section 341, 323, 376 and 506 of the IPC and 67/67A of the I.T. Act. It is stated by the petitioner that he has been in custody since 28th of July, 2023.

Reg. Cr. Revision No. 14 of 2024

It is alleged by the petitioner that he was minor at the time of commission of offence. Cr. Appeal No. 24 of 2023 filed by him, assailing the order of rejection of appeal by the JJB, Supaul, was affirmed by the Court of Appeal and his prayer for bail was rejected. It is pertinent to mention here that the petitioner is also an accused in connection with another case for committing offence under Section 30(a) of the Bihar Prohibition and Excise Act. In the said case, the petitioner is on bail.

Reg. Cr. Revision No. 66 of 2024

The petitioner was booked along with other major accused persons in connection with Pipra P.S. Case No. 237 of 2022, dated 13th of August, 2022, under Section 302 and 34 of the IPC. The petitioner being a CICL prayed for bail before the Juvenile Justice Board, but his prayer for bail was rejected. He preferred an appeal under Section 101 of the said Act before the learned Special Judge, Children's Court and the said appeal was also dismissed and the order of rejection of bail passed by the JJB was affirmed. It is stated by the petitioner that the accused persons who are major, namely, Sushil Kumar Yadav and Anil Yadav were granted bail by a Coordinate Bench of this Court on 26th of April, 2023 in Cr. Misc. No. 4091 of 2023.

Reg. Cr. Revision No. 72 of 2024

The petitioner has assailed an order passed by the learned Additional Sessions Judge, 1st Court-cum-Special Judge, Children's Court, Supaul in Cr. Appeal No. 29 of 2023 on 13th of December, 2023, affirming the order of rejection of bail by the Jurisdictional JJB in connection with S.T. No. 469 of 2022, arising out Raghapur P.S. Case No. 262 of 2019, registered under Sections 399, 402, 353, 307 and 414 of the IPC and Sections 25(1-b)a, 26, 35 and 27 of Arms Act.

It is stated by the petitioner that on the date of commission of offence he was minor. He was not named in the FIR. However, he was implicated in connection

with the above-mentioned case on the basis of a confessional statement made by the co-accused which is not admissible in evidence against him.

Reg. Cr. Revision No. 95 of 2024

The petitioner through his father has filed the instant Revision stating, inter alia, that he was a minor on the date of commission of alleged offence. He was booked for committing offence in connection with Katihar P.S. Case 427 of 2023 under Sections 147, 148, 149, 341, 323, 307, 504 and 506 of the IPC. Later on, Section 302 and Sections 3(i)(r)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 were also added.

He prayed for bail before the JJB which was rejected on 3rd of October, 2023. He preferred Cr. Appeal No. 35 of 2023 against the said order of rejection of bail before the learned Special Judge, Children's Court at Katihar. The learned Special Judge rejected the prayer for bail and dismissed the appeal filed by the petitioner.

Reg. Cr. Revision No. 117 of 2024

This Revision is directed against an order passed by the learned Special Judge-cum-Children's Court, Kaimur in Cr. Appeal No. 36 of 2023, which was dismissed vide order dated 17th of October, 2023 and thereby the order passed by the learned JJB rejecting the prayer for bail was affirmed. The petitioner was made an accused in connection with Chand P.S. Case 86 of 2023 dated 7th of May, 2023 for the offences punishable under Sections 365/366(A) and 376 of the Indian Penal Code and Section 6 of the POCSO Act, 2012.

Reg. Cr. Revision No. 120 of 2024

The petitioner being a CICL has filed the instant Revision through his natural guardian assailing an order dated 21st of December, 2023, passed by the learned Special Judge, Children's Court, East Champaran, Motihari in Cr. Appeal No. 27 of 2023, whereby and whereunder, the learned Appellate Court dismissed the Appeal and affirmed the order of rejection of bail passed by the learned JJB, East Champaran, Motihari on 22nd of September, 2023. The CICLL was booked for committing offence in connection with Mufassil (Lakhaura) P.S. case No. 776 of 2022 registered under Section 363, 366A and 34 of the IPC and Section 8 of the POCSO Act.

Reg. Cr. Revision No. 127 of 2024

In the instant revision, the petitioner has assailed the order dated 24th of November, 2023, passed by the learned Special Judge, Children's Court, Supaul in Criminal Appeal No. 34 of 2023, whereby and whereunder, the learned Special Judge, affirmed the order of rejection of bail passed by the Juvenile Justice Board in connection with POCSO Case No. 58 of 2022, arising out of Pipra P. S. Case No. 250 of 2022, under Section 376(DA), 506/34 of the Indian Penal Code; Section 4/12 of the POCSO Act, 2012; and Section 3(2)(r)(s)/3(2)(VA) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Reg. Cr. Revision No. 152 of 2024

It is alleged by the petitioner that he was falsely implicated in a case under Section 364/120(B) of the Indian Penal Code when he was aged about 16 years and 7 months. He prayed for bail before the JJB, in JJB Case No. 1148 of 2023, but his prayer was rejected by the Principal Magistrate, JJB. Against the said order, he preferred an appeal before the learned Special Judge, Aurangabad in Cr. Appeal No. 54 of 2023. The learned Special Judge dismissed the said appeal and affirmed the order of JJB on 3rd of January, 2024. The said order is under challenge in the instant Revision.

Reg. Cr. Revision No. 156 of 2024

The instant revision is directed against an order, dated 19th of January, 2024, passed by the learned Special Judge, Children's Court at Aurangabad in Cr. Appeal No. 56 of 2023, affirming the order of rejection of bail by the JJB and dismissing the appeal in connection with Nabinagar P. S. Case No. 342 of 2023, registered under Sections 25(1-b)/26/35 of the Arms Act, 1959.

Reg. Cr. Revision No. 158 of 2024

The instant Revision is directed against an order dated 15th of January, 2024, passed by the learned Special Judge, Children's Court, Patna in Cr. Appeal No. 201 of 2023, arising out of Hawaii Adda P. S. Case No. 229 of 2017, under Sections 398 and 302 of the Indian Penal Code, whereby and whereunder, the learned Appellate Court, affirming the order dated 16th of October, 2023, passed by the JJ Board, Patna City rejecting the prayer for bail of the petitioner, dismissed the Appeal.

Reg. Cr. Revision No. 178 of 2024

The instant Revision is also filed assailing the order dated 29th of January, 2024, passed by the learned Special Judge, Children's Court, Rohtas at Sasaram in Cr. Appeal No. 04 of 2024, affirming the order of rejection of bail, in connection with Sanjhauli P. S. Case No. 127 of 2023, dated 11th of September, 2023, corresponding to JJB Case No. 455 of 2023, rejecting the prayer for bail of the CICL and dismissed the appeal as the CICL was booked for committing offence under Sections 302, 120 (B) and 34 of the Indian Penal Code. 7th of May, 2023 for the offence punishable under Sections 365, 366(A), 376 read with Section 6 of the POCSO Act.

In all the impugned orders passed by the learned Special Judges, Children's Court, the appeals were dismissed on the following grounds: -

(i) The CICLs were involved in committing heinous offence; and

(ii) Secondly, the Social Investigation Report filed by the Probation Officers state that the CICLs were grown up in their respective families where their parents failed to control them from mixing up with the anti-socials and criminals of the locality. There is every chance that if they are released on bail, they will again

befriend with the criminal and goons. Parents and natural guardians of the petitioners will not be able to control them and their release is likely to bring them into the association with the known criminals and they expose them to moral, physical and psychological danger or the persons released would defeat the ends of justice.

In almost all the impugned orders, the Court of Appeal recorded the proviso of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and rejected the prayer for bail without assigning or recording the reasons stating the circumstances that led the learned Judges to such a decision. In other words, there was no subjective consideration for the prayer for bail of the CICLs neither by the JJB nor by the Courts of Appeal.

Chapter-II of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down the general principles of care and protection of children. Section -3(i) of the said Act states: -

"3(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 18 years.

3(iv) Principle of best Interests : 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.

3(v) Principle of Family responsibility: The primary responsibility of care, nurture and protection of child shall be that of the biological family or adoptive or first aid parents, as the case may be.

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

This Court is of the view that the provision of Section 12 of the said Act relating to bail shall be taken into consideration, notwithstanding anything contained in the Code of Criminal Procedure, in the touchstone of the principle of presumption of innocence of the child. Thus, granting bail to a CICL is the rule and refusal is an exception.

The learned Advocates appearing on behalf of the petitioners made the same submission that both the Trial Court as well as the Appellate Court failed to consider that the prayer for bail of the CICLs should be considered with a presumption of innocence except in one case there is no criminal antecedents of the petitioners. There is also no report except in one case where the father and uncle were also arrested with the CICL that the family of the petitioners had previous criminal antecedents and there is specific chance of the juvenile re-indulgence to bring him into association with known criminals. The Probation Officers submitted the Social Investigation Report (SIR) in a mechanical way, without assigning specific incident of his apprehension and both the JJB and the Court of Appeal accepted SIRS as the gospel truth relating to the future incident of the petitioners.

This Court has already recorded that an application for bail filed on behalf of the CICL shall be considered with a presumption of innocence. Section 12(1) of the said Act makes the provision relating to bail to a person who is apparently a child to be in conflict with law. Section 12(1) says: -

"12(1) When any person, who is apparently a child and is alleged to have been 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 Criminal Procedure Code, 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.

The word "shall" in Section 12(1) of the said act, raises a presumption that Section 12(1) is imperative, but for the proviso. The prima facie inference may be rebutted on the basis of probe of conditions contained in the proviso to the effect that the release is likely to bring him into association with any known criminal; secondly that the release is likely to expose him to moral, physical or psychological danger; (c) that release of juvenile in conflict of law would defeat the ends of justice.

In any of the impugned judgement, this Court does not come across with the finding made by the Appellate Court that the proviso to Section 12 were applicable against the petitioners.

In *Lalu Kumar @ Lal Babu @ Lallu vs The State of Bihar*, reported in 2019 (4) PLJR 833, this Court while interpreting Section 12 of the said Act has laid down the principle that the Board while considering the bail of a juvenile is duty bound to follow the principle of "best interest", "repatriation" and "restoration" of child. The gravity and nature of offence are immaterial for consideration of bail of a juvenile.

It is high time to remind both the JJBs and the learned Special Judges, Children's Court that as per Section 12 of the Act, an application for bail is not decided by reference to classification of offences as bailable or non-bailable under the Cr.P.C.

In *Nand Kishore (in JC) Vs. State*, reported in (2006) 4 RCR (Cri) 754, Delhi High Court while considering the first condition of proviso of Section 12 of the said Act, observed that "as regards the first exception, before it can be invoked to deny bail to a juvenile, there must be a reasonable ground for believing that his release is likely to bring him into association with known criminals. The expression "known criminal" is not without significance when the liberty of a juvenile is sought to be curtailed by employing the exception, the exception must be construed strictly. Therefore, before this exception is invoked, the prosecution must identified the "known criminals" and thereafter the Court must have reasonable grounds to believe that the juvenile, if released, would associate with this "known criminals". It cannot be generally observed that the release of the juvenile would bring him into association with criminals without identifying the

criminal and without returning a prima facie finding with regard to the nexus between the juvenile and such criminals.

Section 13(i)(ii) of the said Act provides that the Probation Officer shall submit a Social Investigation Report within two weeks from when a child is apprehended or brought to the Board containing information regarding the antecedents and family background of the child and other material circumstances likely to be of assistance to the Board for making an enquiry. The Social Investigation Report (SIR), which has been defined in Rule 2(xvii) of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016 means the report of a child containing detailed information pertaining to the circumstances of the child, the situation of the child on economic, social, psycho-social and other relevant factors and the recommendation thereon. This report becomes important for the enquiry to be done by the Board while passing such orders in relation to such a child as it deems fit under Sections 17 and 18 of this Act. The purpose behind this provision is to enable Juvenile Justice Board to get a glimpse of the social circumstances of the child before any order regarding bail or of any other nature is passed.

Most of the revisions have annexed therewith a copy of Social Investigation Report. It is found that the concerned Probation Officer made a table work and mechanically prepared SIRs without following Rule 2(XVI) and Form - 6 of the Model Rules of 2016. A Co-ordinate Bench of the Allahabad High Court in Juvenile X through his father Vs. State of U. P. and Anr., reported in 2021 SCC Online All 1091 succinctly dealt with the requirement to be followed by the Probation Officer while filing Social Investigation Report.

Paragraph 23 of the judgement is very relevant for our purpose and the same is reproduced hereinbelow: -

"23. 'Form-6' of The Juvenile Justice (Care and Protection of Children) Model Rules, 2016, contains a detailed proforma of the social investigation report. The report has three parts; the first part requires the Probation Officer to give the data or information regarding the close relatives in the family, delinquency records of the family, social and economic status, ethical code of the family, attitude towards religion, relationship amongst the family members, the relationship with the parents, living conditions etc. Thereafter, the report requires the Probation Officer to provide the child's history regarding his mental condition, physical condition, habits, interests, personality traits, neighbourhood, neighbours' report, and school, employment, if any, friends, the child being subject to any form of abuse, circumstances of apprehension of the child, mental condition of the child. The most important part of the report is the third part i.e. the result of inquiry where the Probation Officer is required to inform the Board about the emotional factors, physical condition, intelligence, social and economic factors, suggestive cause of the problems, analysis of the case including reasons/ contributing factors for the offence, opinion of experts consulted and recommendation regarding rehabilitation by the Probation Officer/Child Welfare Officer. It is incumbent upon the Juvenile Justice Board to take into consideration

the social investigation report and make an objective assessment of the reasonable grounds for rejecting the bail application of the juvenile.”

On perusal of the impugned orders, it appears to this Court that both the JJBs and the Courts of Appeal have dealt with the applications for bail and connected appeals on the consideration that the offences committed by the petitioners are heinous offences. Both the Board and the Courts of Appeal must be free from this mind set that an application for bail of CICL cannot be rejected on the ground of heinous offence. At the same time, the Board and the Courts of Appeal shall remain alive to impose conditions for bail in the manner through which the future of CICL is protected. He may be kept under the supervision and guidance of a proper person so that he may not come in association of known criminals or that the order of bail expose him to moral, physical or psychological danger or it will defeat ends of justice.

For the reasons stated above, I am inclined to allow these batch of revision on contest.

The petitioners / CICLs shall be released on bail on furnishing bails bonds of Rs. 20,000/- each with two sureties of the like amount each to the satisfaction of the concerned Court with further condition that:

- (i) one of the sureties must be the parents of the petitioners; and
- (ii) the other shall be the Panchayat Member of the village or any other responsible persons of the village / locality having no criminal antecedents with further conditions that the CICLs shall remain present before the Board or the Children’s Court, as the case may be, on each and every date of trial of the case.

The order of bail shall be automatically cancelled in violation of any of the conditions.

Let a copy of this judgement be transmitted by the Registry of this Court to all the District Judges within two weeks for circulation to all the Juvenile Justice Boards and Children’s Courts, constituted under the said Act (Act 2 of 2016) for their appraisal as to the mode and manner and the factual and legal consideration while granting or rejecting a prayer for bail or connected Appeal under the said Act.

Office is directed to send the email of this order to the respective Courts.