



2025:DHC:1588



\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 11<sup>th</sup> March, 2025**

+ **CRL.REV.P. 1112/2023 & CRL.M.A. 28607/2023**

**MOHD. MUNIB** .....Petitioner

Through: **Mr. Vineet Jain, Advocate.**

versus

**STATE (NCT OF DELHI) AND ANR.** .....Respondent

Through: **Mr. Satish Kumar, APP for the State  
with SI Satish Kumar, PS-Bara Hindu  
Rao, Delhi.**

**Mr. Rajiv Mohan, Mr. Swapnil  
Tripathi, Mr. Rehan Khan, Mr.  
Chandver and Mr. Sachit Sharma,  
Advocates.**

**CORAM:**

**HON'BLE MR. JUSTICE CHANDRA DHARI SINGH**

### **ORDER**

#### **CHANDRA DHARI SINGH, J (Oral)**

1. The present petition under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter “JJ Act”) has been filed on behalf of the petitioner challenging the order dated 16<sup>th</sup> September, 2023 (hereinafter “impugned order”) passed by the learned Additional Sessions Judge-01 (Children Court), Central, Tis Hazari Courts, Delhi (hereinafter “ASJ”) in Criminal Appeal No. 259/2022, whereby the appeal against two orders dated 28<sup>th</sup> October, 2022 passed by the Juvenile Justice Board-III, Delhi (hereinafter “JJB”) was dismissed.



2. The brief facts that led to the filing of the instant petition are as follows:

- a. On 4<sup>th</sup> September, 2022, the petitioner, Mohd. Munib, lodged a missing person report (DD No. 4A) at Police Station - Bara Hindu Rao, Delhi, regarding his cousin, Mohd. Haseeb (now deceased), who had gone to meet one Naushad on 3<sup>rd</sup> September, 2022 at around 04:30 PM and failed to return home.
- b. Despite the petitioner's efforts, the police did not immediately register an FIR, and only upon persistent persuasion did the police register an FIR No. 247/2022 on 5<sup>th</sup> September, 2022 under Section 365 of the IPC at Police Station - Bara Hindu Rao, Delhi.
- c. During the course of investigation, the police examined CCTV footage from the vicinity, which revealed that Naushad's nephew, Raja, was seen moving the scooty of Mohd. Haseeb. Accordingly, Naushad, his son, who is the Child in Conflict with law in the present case (hereinafter "CCL-SAH") and his nephew-cum-servant, Raja were arrested by the police.
- d. Upon interrogation, Naushad and CCL-SAH confessed that a dispute had arisen between Naushad and the deceased over a financial matter, during which Naushad instructed his son to bring a gun and kill Mohd. Haseeb.
- e. CCL-SAH retrieved a licensed firearm from their house and shot Mohd. Haseeb leading to his death. Subsequently, the accused persons disposed of his body in Gang Nahar, Ghaziabad, Uttar Pradesh, and



made concerted efforts to destroy evidence, including cleaning the crime scene, disposing of the victim's belongings and erasing CCTV footage.

- f. On 6<sup>th</sup> September, 2022, based on the disclosure statements of the accused persons, the dead body of the deceased was recovered from Gang Nahar, and the weapon of offence, four live cartridges and the vehicle used for disposal of the body were seized.
- g. In light of the evidence, offences punishable under Section 302, 201 and 34 of the Indian Penal Code, 1860 (hereinafter "IPC") were added to the case, and a chargesheet was filed against Naushad and Raja, while CCL-SAH was produced before JJB as a Child in Conflict with Law.
- h. Since CCL-SAH was above 16 years of age at the time of offence, a Preliminary Assessment under Section 15 of the JJ Act was required to determine whether he should be tried as an adult.
- i. The petitioner filed an application under Section 15 of the JJ Act before the JJB seeking to have CCL-SAH tried as an adult, considering the heinous nature of the crime and his active role in committing the murder as well as disposing of the body of the deceased.
- j. The JJB, vide order dated 28<sup>th</sup> October, 2022, granted bail to CCL-SAH under Section 12 of the JJ Act and held that CCL-SAH lacked the mental and physical capacity to commit the offence and understand its consequences, thereby rejecting the petitioner's plea to



try CCL-SAH as an adult.

- k. Aggrieved by both the orders dated 28<sup>th</sup> October, 2022, the petitioner filed an appeal before the learned ASJ, Tis Hazari, Delhi, challenging both the grant of bail and the order rejecting the trial of CCL-SAH as an adult on the ground that the preliminary assessment was flawed, three different birth dates of CCL-SAH were recorded in different documents and the prosecution was not given a fair opportunity to present its case against the grant of bail.
1. The learned ASJ, vide judgment dated 16<sup>th</sup> September, 2023, dismissed the appeal and upheld the orders passed by the JJB observing that JJB had followed due process and relied on the Preliminary Assessment Report, Social Investigation Report and Physical-Mental Drug Assessment Report and that there was no procedural illegality in granting bail.
- m. Aggrieved by the impugned order dated 16<sup>th</sup> September, 2023, the petitioner has approached this Court seeking the setting aside of the same on the ground that the learned ASJ erred in upholding the JJB's order.
3. Learned counsel appearing on behalf of the petitioner submitted that the impugned order dated 16<sup>th</sup> September, 2023 passed by the learned ASJ suffers from grave legal infirmities and warrants interference by this Court.
4. It is submitted that JJB failed to conduct a proper preliminary assessment under Section 15 of the JJ Act, as it ignored crucial evidence and reports which demonstrated that CCL-SAH had the mental and physical



capacity to commit the offence and understand its consequences.

5. It is submitted that the heinous nature of the crime, the premeditated manner in which it was executed and the role played by CCL-SAH including retrieving the firearm, shooting the deceased and aiding in the disposal of the body, all indicate a mature and well-planned criminal intent, which justifies his trial as an adult.

6. It is submitted that the JJB mechanically relied on the Preliminary Assessment Report without conducting a thorough evaluation of CCL-SAH's capacity and its order is contradictory inasmuch as it acknowledged the active role of CCH-SAH in the commission of the crime, yet ruled that he lacked the capacity to be tried as an adult.

7. It is submitted that the petitioner was denied an adequate opportunity to be heard before JJB, which is a violation of principles of natural justice. The complainant had filed an application under Section 15 of the JJ Act seeking a preliminary assessment for trial as an adult, but JJB passed its orders without allowing the complainant to make submissions on this aspect.

8. It is submitted that the age determination of CCL-SAH remains doubtful, as multiple birth dates (27<sup>th</sup> July, 2005, 17<sup>th</sup> June, 2005 and 8<sup>th</sup> July, 2005) have been recorded in various documents, raising serious concerns about the validity of his juvenility claim. Neither JJB nor the learned ASJ undertook an independent verification of age records and their reliance on one set of documents while ignoring contradictory evidence is legally untenable.

9. It is submitted that JJB and the learned ASJ failed to appreciate the



prosecution's evidence, which clearly established that CCL-SAH was fully aware of his actions and their consequences. The argument that he lacked decision-making ability and impulse control is contradicted by his active role in committing the crime and attempting to destroy evidence.

10. In light of the aforesaid submissions, it is prayed that the impugned order be set aside and a fresh preliminary assessment be conducted in accordance with Section 15 of the JJ Act, while also setting aside the bail granted to CCL-SAH under Section 12 of the JJ Act.

11. *Per Contra*, learned counsel appearing on behalf of the respondent submitted that orders passed by JJB and the impugned order passed by the learned ASJ are in full compliance with the provisions of the JJ Act, 2015 and do not warrant any interference by this Court.

12. It is submitted that JJB conducted a detailed and thorough preliminary assessment as mandated under Section 15 of the JJ Act, taking into consideration the Social Background Report, Social Investigation Report, Physical-Mental Drug Assessment Report and Preliminary Assessment Report and came to a well-reasoned conclusion that CCL-SAH does not possess the mental and physical capacity to be tried as an adult.

13. It is submitted that the age determination of CCL-SAH is not in dispute, as the school records clearly establish his date of birth as 8<sup>th</sup> July, 2005 making him a juvenile at the time of the alleged offence. The petitioner's reliance on other birth dates is misplaced, as school records are the preliminary documents considered under Rule 12 of the Juvenile Justice Model Rules, 2016 for the purposes of age determination.



14. It is submitted that the bail granted to CCL-SAH was in accordance with Section 12 of the JJ Act, which mandates that a child in conflict with law shall be granted bail unless there exist reasonable grounds to believe him that his release would bring him in association with known criminals, expose him to moral or physical danger or defeat the ends of justice. It is further submitted that no such grounds were established by the prosecution.

15. It is submitted that the prosecution failed to provide any concrete evidence that CCL-SAH, if released, would tamper with evidence or influence witnesses. The mere seriousness of the offence does not, by itself, justify the denial of bail under Section 12 of the JJ Act.

16. It is submitted that the argument that CCL-SAH had full decision-making ability and acted with premeditation is misconceived, as the Preliminary Assessment Report clearly indicates that he suffers from poor impulse control, lacks parental supervision and exhibits risk-taking behaviour. These factors demonstrate that he did not possess the requisite mental capacity to understand the gravity of his actions.

17. It is submitted that JJB did not violate the principles of natural justice, as the complainant had no absolute right to be heard before the preliminary assessment was made. The proceedings before the JJB are primarily child-centric, and the preliminary assessment is not an adversarial/combatative/litigious hearing but a procedural step to determine the nature of inquiry.

18. It is submitted that the impugned order is not contradictory as the learned ASJ noted that the JJB considered all the relevant factors in



determining CCL-SAH's role but found that his mental and physical capacity, along with his social background, warranted his trial before the Board rather than as an adult.

19. In light of the above submissions, it is prayed that the present revision petition being devoid of any merit may be dismissed.

20. Heard learned counsel appearing on behalf of the parties and perused the material on record.

21. It is the case of the petitioner that the impugned order dated 16<sup>th</sup> September, 2023 suffers from legal infirmities, contending that the learned ASJ failed to recognize the JJB's improper assessment of the mental and physical capacity of CCL-SAH under Section 15 of the JJ Act, despite clear evidence of his active role in the premeditated murder, disposal of the body of deceased and destruction of evidence. It is argued that CCL-SAH had full decision-making ability, warranting his trial as an adult, but JJB mechanically relied on an inadequate preliminary assessment report while denying the petitioner an opportunity to present his arguments, thereby violating principles of natural justice. The contradictions in JJB's order, the flaws in age determination, and the erroneous grant of bail despite the heinous nature of the crime necessitate interference by this Court.

22. On the other hand, the contention of the respondent is that the impugned order was passed in strict compliance with the JJ Act as JJB properly conducted a preliminary assessment under Section 15, considering the relevant reports and correctly concluded that CCL-SAH lacked the mental and physical capacity to be tried as an adult. The age of CCL-SAH is





not in dispute, as school records establish his date of birth as 8<sup>th</sup> July, 2005, making him a juvenile at the time of the offence and bail was granted as per the mandate of Section 12 of the JJ Act, which favors rehabilitation over punishment. The respondent emphasized that the petitioner has failed to establish any legal infirmity in the process, and the mere seriousness of the offence does not override the statutory protections afforded to juveniles, making the present revision petition misconceived and liable to be dismissed.

23. Therefore, this Court finds it apposite to, *first*, deal with the issue of whether CCL-SAH was correctly determined to be a juvenile at the time of the alleged offences.

24. The determination of age is the threshold inquiry in cases under the JJ Act as it directly impacts jurisdiction, procedural safeguards and the mode of trial. Under Section 94 of the JJ Act, age determination must follow the prescribed hierarchy of documents, with school records being the primary evidence. For the sake of convenience, the said provision is reproduced as under:

***“94. Presumption and determination of age: (1) Where, it is obvious to the Committee or the Board, based on the appearance of the person brought before it under any of the provisions of this Act (other than for the purpose of giving evidence) that the said person is a child, the Committee or the Board shall record such observation stating the age of the child as nearly as may be and proceed with the inquiry under section 14 or section 36, as the case may be, without waiting for further confirmation of the age.***



*(2) In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining —*

*(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;*

*(ii) the birth certificate given by a corporation or a municipal authority or a panchayat;*

*(iii) and only in the absence of (i) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board:*

*Provided such age determination test conducted on the order of the Committee or the Board shall be completed within fifteen days from the date of such order.*

*(3) The age recorded by the Committee or the Board to be the age of person so brought before it shall, for the purpose of this Act, be deemed to be the true age of that person.”*

25. Bearing the foregoing provision in mind, in the present case, the prosecution produced multiple documents reflecting three different dates of birth for CCL-SAH, which are, 27<sup>th</sup> June, 2005 (as per certain identity documents), 17<sup>th</sup> June, 2005 (as per some official records) and 8<sup>th</sup> July, 2005 (as per school records). However, the JJB, while conducting the age determination process, relied solely on the school records accepting 8<sup>th</sup> July, 2005 as the date of birth of CCL-SAH, making him a juvenile on the date of the offence.

26. In light of the same, it is pertinent to mention the contention of the



respondent that the school records are the most reliable proof under Rule 12 of the JJ Model Rules, 2016 (hereinafter “2016 Rules”) and since the matriculation certificate was unavailable, JJB correctly relied on the date of birth mentioned in the school certificate which is consistent with statutory requirements. The relevant portion of the Rule 12 is reproduced below:

***“Rule 12. Procedure to be followed in determination of age.***

*... (3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the Court or the Board or, as the case may be, the Committee by seeking evidence by obtaining-*

*(a)(i) the matriculation or equivalent certificates, if available; and in the absence whereof;*

*(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;*

*(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;*

*(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year, and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.”*



27. Rule 12 of the 2016 Rules mandates a hierarchical approach for age determination of a juvenile, requiring the Court, Board, or Committee to rely on *firstly* matriculation or equivalent certificate, *secondly*, date of birth certificate from the first attended school (excluding play schools), or *thirdly*, birth certificate issued by a corporation, municipal authority, or panchayat. Only in the absence of these documents, a Medical Board's opinion may be sought. If an exact assessment is not possible, the authority may, for recorded reasons, grant the benefit of a one-year margin on the lower side. The evidence obtained as per this hierarchy is deemed conclusive proof of age.

28. Accordingly, the process of age determination under the JJ Act does not require mathematical precision but must adhere to the prescribed statutory framework to ensure fairness and consistency. In the present case, the JJB has followed the hierarchy laid down in Rule 12, relying on the first available document in the statutory order of preference.

29. Moreover, the petitioner has failed to produce any legally admissible document that holds greater evidentiary value than the school records. The mere presence of alternative dates in other documents does not, by itself, invalidate the school record unless proven to be forged which has not been demonstrated in this case.

30. Accordingly, this Court finds that the JJB's age determination process was legally sound and is in consonance with Rule 12 of the 2016 Rules and Section 94 of the JJ Act, 2015. Consequently, the petitioner's challenge to the age determination process is rejected, and the view of the learned ASJ



that the date of birth of CCL-SAH is 8<sup>th</sup> July, 2005 is found to be valid, confirming his juvenility at the time of the offence.

31. The second issue that arises for consideration is whether the JJB conducted a proper preliminary assessment under Section 15 of the JJ Act, 2015.

32. The significance of the preliminary assessment lies in its role as a filter, determining whether a child between 16 to 18 years of age, alleged to have committed a heinous offence should be tried as an adult before a regular court or face an inquiry before the JJB. At this juncture, it is pertinent to mention Section 15 of the JJ Act is reproduced as under:

***“15. Preliminary assessment into heinous offences by Board:***

*(1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub- section (3) of section 18:*

*Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.*

*Explanation. —For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the capacity of such child to commit and understand the consequences of the alleged offence.*

*(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board*



*shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973: Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101: Provided further that the assessment under this section shall be completed within the period specified in section 14.”*

33. The foregoing provision provides that in cases where a child aged between 16 and 18 years is alleged to have committed a heinous offence, JJB must conduct a preliminary assessment to determine whether the child possess:

- a. The mental and physical capacity to commit the offence.
- b. The ability to understand the consequences of the offence.
- c. The circumstances in which the offence was committed.

34. Upon examining the reports relied upon by the JJB, this Court finds that they indicate that CCL-SAH exhibited cognitive immaturity, poor impulse control and an ability to fully comprehend the gravity of his actions. The findings suggest that his decision-making ability was compromised due to his adolescent risk-taking behavior, lack of parental supervision, and susceptibility to external influence, particularly his father, Naushad.

35. Furthermore, the Social Investigation Report does not indicate a pattern of criminal behavior or premeditation beyond the immediate circumstances of the offence. This supports JJB's conclusion that CCL-SAH did not possess the necessary mental and physical maturity to be tried as an adult.

36. The petitioner's argument that JJB mechanically relied on reports



without scrutiny cannot be sustained as the assessment was based on expert findings rather than a mere procedural formality.

37. Therefore, the learned ASJ's affirmation of the JJB's order is found to be legally sustainable, as it correctly held that JJB's decision was based on proper evaluation of CCL-SAH's cognitive and emotional maturity.

38. Having determined that JJB conducted a proper preliminary assessment under Section 15 of the JJ Act and that CCL-SAH is to be tried as a juvenile, the third issue for consideration is whether the grant of bail to CCL-SAH under Section 12 of the JJ Act was justified in the present case. Accordingly, Section 12 of the JJ Act is reproduced below:

***“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 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 Code of Criminal Procedure, 1973 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 appear 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 person's 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.”***

39. Section 12 of the JJ Act provides that a child alleged to be in conflict



with law shall be released on bail with or without surety, notwithstanding the provisions of the CrPC, unless there exist reasonable grounds for believing that *firstly*, the released is likely to bring the child into association with any known criminal, *secondly*, the release is likely to expose the child to moral, physical or psychological danger or *thirdly*, the release would defeat the ends of justice.

40. JJB, vide order dated 28<sup>th</sup> October, 2022, granted bail to CCL-SAH observing that there were no reasonable grounds to suggest that CCL-SAH's release would associate him with known criminals, there was no material on record to indicate that his release would expose him to moral, physical or psychological danger. The bail was also granted in furtherance of the rehabilitative principles of the JJ Act, as detention should an exception for juveniles.

41. The learned ASJ, affirming the JJB's reasoning, upheld the grant of bail, noting that the prosecution failed to establish any statutory exception under Section 12 of the JJ Act to justify its denial. The ASJ emphasized that the severity of the offence alone cannot override the statutory presumption in favor of bail and that no credible material indicated CCL-SAH's release would expose him to moral, physical or psychological danger or defeat the ends of justice beyond a general claim of the offence's heinous nature.

42. The petitioner has challenged this finding contending that the offence committed was of an extremely heinous nature, involving murder, disposal of the body and destruction of evidence, demonstrating a mature criminal mindset which should disqualify CCL-SAH from getting a concession of





bail.

43. The JJ Act mandates a presumption in favor of bail, which can only be denied if the prosecution demonstrates that one of the three statutory exceptions is met. The petitioner has failed to establish any of these grounds.

44. A perusal of JJB's order reveals that it applied the statutory principles governing bail under the JJ Act and examined the specific circumstances surrounding CCL-SAH before granting bail. The learned ASJ, in dismissing the petitioner's appeal, upheld the bail order, finding that the prosecution failed to present any material evidence to demonstrate that CCL-SAH was associated with any known criminal.

45. The learned ASJ also noted that there was no credible material to suggest that his release would place him in moral, physical, or psychological danger along with failure to show how the release of CCL-SAH would defeat the ends of justice, apart from a general claim that the offence was heinous in nature.

46. The Patna High Court, in ***Rakesh Rai v. State of Bihar, 2025 SCC OnLine Pat 374***, reaffirmed the mandatory nature of bail under Section 12 of the JJ Act, holding that:

*“11. Use of the expression- “such person shall be released on bail” in Section 12(1) of the Act also shows that grant of bail to a juvenile is mandatory unless grounds for denial are present.*

*12. It also emerges that seriousness of the alleged offence or the age of the juvenile are also no relevant considerations for denial of bail under Section 12 of the J.J. Act. Even a child who has completed or is above the age of 16 years and is alleged to have committed a heinous offence is also entitled to get bail*



under Section 12 of the Act, 2015. There is no classification whatsoever provided in Section 12 of the Act, 2015 in regard to grant of bail. Section 12 is applicable to all juveniles in conflict with law without any discrimination of any nature. (Also refer to **Lalu Kumar @ Lal Babu v. State of Bihar, (2019) 6 BLJ 2016**)

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*16. As such, if keeping of the child in custody is helpful in his development and rehabilitation or protection, only then it could be said that release of the child would defeat the ends of justice. (Also refer to **Abhishek v. State, 205 Cri LJ (NOC) 115 (Delhi)** and **Manoj v. State (NCT of Delhi), 2006 Cri LJ 4759**). Moreover, the family is considered as the best and most desirable institution for ensuring welfare and rehabilitation of the child, if the family environment is conducive for the development of the child. In such situation, the release of the appellant on bail would serve and promote the ends of justice better than detaining the appellant in the observation home.”*

47. This abovementioned precedent reinforces the principle that bail for a juvenile is the norm, with its denial being an exception, permissible only when the statutory conditions under Section 12 of the JJ Act are met. The mere gravity of the offense is not, by itself, a sufficient ground for refusal, unless it is demonstrated that detention is necessary for the child’s rehabilitation, protection, or to prevent interference with the judicial process. In the present case, the learned ASJ’s reasoning aligns with this settled legal position, as the prosecution failed to establish any statutory ground justifying the denial of bail to CCL-SAH.

48. This Court notes that the JJ Act creates a specific framework for bail that departs from general criminal law principles under the CrPC. The



statutory presumption in favor of bail can only be rebutted if compelling reasons exist.

49. Applying the above mentioned principles, this Court finds that the prosecution has not demonstrated any substantial likelihood of CCL-SAH associating with known criminals if released and there is no evidence that his release would expose him to moral, physical or psychological harm.

50. While the gravity of the offence is not in dispute, there is no material to support the contention that his release would defeat the ends of justice, as mere apprehension of interference with witnesses is not sufficient without actual supporting material.

51. Consequently, in the absence of any cogent grounds justifying denial of bail under Section 12 of the JJ Act, this Court finds that the grant of bail to CCL-SAH was justified and in accordance with law.

52. Having determined that JJB correctly granted bail to CCL-SAH under Section 12 of the JJ Act, 2015, the next issue for consideration is whether the petitioner was denied an opportunity of hearing, leading to a violation of the principles of natural justice.

53. The petitioner contended that the orders were passed by the JJB without affording him a proper hearing, thereby violating principles of natural justice, which require that a party affected by a judicial or quasi-judicial decision be given a fair opportunity to present its case.

54. The respondent disputes this claim arguing that juvenile justice proceedings are child-centric and not adversarial in nature, and therefore, the complainant does not have an absolute right to be heard at every stage.



55. The JJ Act prescribes a clear procedural framework for seeking bail on behalf of a CCL, with the initial application to be made before the JJB under Section 12. Significantly, this provision does not require the complainant or victim to be granted an opportunity of hearing during the bail proceedings.

56. If both the JJB and the appellate court refuse bail to the accused, the CCL can invoke the revisional jurisdiction of the High Court under Section 102 of the JJ Act. The proviso to Section 102 stipulates that the High Court shall not pass any order prejudicial to any person without affording them a reasonable opportunity of being heard.

57. However, an analysis of the entire scheme of the JJ Act leaves no doubt that the concept of hearing the complainant at any stage of bail proceedings – before JJB, the appellate court or the revisional court – is completely foreign to the fundamental principles underlying this welfare legislation. The legislative intent does not indicate any requirement to notify or hear the complainant before considering a CCL's bail application at any stage.

58. Even if the proviso to Section 102 of the JJ Act is interpreted literally, it merely states that an order prejudicial to any person shall not be passed without an opportunity to be heard. It is manifestly clear that an order granting bail to a CCL, does not cause any legal prejudice to the complainant or victim. Granting bail is an exercise in furtherance of the principle of liberty, extending the fundamental right of life and personal liberty enshrined under Article 21 of the Constitution of India to a person



who has been arrested or confined under sanction of law.

59. This interpretation aligns with the overarching principles of the JJ Act which prioritizes the welfare and rehabilitation of the child over retributive concerns. The legislative framework makes a clear distinction between proceedings concerning juveniles and those governed by regular criminal law, emphasizing that bail decisions for a Child in Conflict with law must be assessed within the protective and reformatory objectives of the Act, rather than through an adversarial lens.

60. The Rajasthan High Court, in *X v. State*, 2021 SCC OnLine Raj 4209, reiterated this legislative intent, holding that the complainant's right to be heard in bail proceedings under the JJ Act is not supported by statutory mandate. The Court observed:

*“...However, after analyzing the entire scheme of the Juvenile Justice Act, I am of the firm view that the concept of hearing the complainant in an application for bail of a CICL under the Juvenile Justice Act be it before the Board, the appellate court or the revisional court is totally foreign to the fundamental principles underlying the welfare legislation. The legislative intent does not give any such indication, which may require notifying the complainant before proceeding to consider the prayer for bail of a CICL at any of these three stages. Suffice it to say that even if the plain language of proviso to Section 102 of the Juvenile Justice Act is literally considered, it indicates that an order prejudicial to any person may not be passed by the High Court without giving him a reasonable opportunity of being heard. Manifestly, an order of bail to an accused, more so a CICL, can never be considered as causing prejudice to any person, may it be the complainant/victim. Bail to an accused furthers the concept of liberty to a person arrested/confined by*



*sanction of law and is virtually an extension of the principle of fundamental right of liberty guaranteed by Article 21 of the Constitution of India. If at all, the legislature had intended to give a right of hearing to the complainant in proceedings of bail, under the Juvenile Justice Act specific insertions to this effect could have been made in Sections 12, 101 and 102 of the Juvenile Justice Act as are available in the Scheduled Caste/Scheduled Tribe (Prevention of Atrocities) Act, another special legislation. It has been specifically mandated in the Section 15-A of the SC/ST Act that a victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding.*

*Thus, it is clear that there is no legislative mandate under the Juvenile Justice Act that the victim should be notified before hearing the bail application of a child in conflict with law, be it before the Juvenile Justice Board, Appellate Court or before the High Court exercising the revisional powers under Section 102 of the Juvenile Justice Act.*

61. The decision in **X v. State (Supra)** reinforces the established principle that the JJ Act does not confer an automatic right upon the complainant to be heard at every stage of bail proceedings concerning a CICL. This judicial interpretation underscores that granting bail to a juvenile cannot be equated with an adverse order against the complainant and does not amount to a violation of natural justice. Accordingly, there exists no legal basis to mandate notice to the complainant before considering a bail application under Sections 12, 101, or 102 of the JJ Act.

62. Thus, in light of the statutory scheme and legislative intent, it is evident that there is no unqualified right for the complainant to be heard at



every stage of bail proceedings under the JJ Act, 2015. The involvement of the complainant remains a matter of judicial discretion rather than an enforceable entitlement, and the fundamental principle of juvenile justice i.e., ‘rehabilitation over retribution’ must remain paramount in any such determination.

63. Having examined the preceding issues, the next consideration is whether the impugned order of the learned ASJ, which upheld the JJB’s findings, suffers from any legal infirmity warranting interference under Section 102 of the JJ Act. The revisional jurisdiction of this Court is limited to correcting jurisdictional errors, procedural irregularities, or legal infirmities and does not permit reappreciation of factual findings unless they are perverse, illegal, or contrary to settled legal principles. The petitioner contends that the learned ASJ failed to evaluate contradictions in the JJB’s reasoning and mechanically upheld its findings, while the respondent maintains that the impugned order is well-reasoned and does not warrant interference.

64. A perusal of the impugned order reveals that the learned ASJ confined its review to assessing procedural and jurisdictional correctness, finding that the JJB had acted within its authority and in accordance with the law. The learned ASJ affirmed the JJB’s determination that CCL-SAH lacked the requisite mental and physical capacity to be tried as an adult, based on expert assessments and background reports, and upheld the grant of bail, noting the prosecution’s failure to establish any statutory exceptions under Section 12. No material irregularity, jurisdictional error, or



miscarriage of justice is evident, and the petitioner's disagreement with the conclusions does not render the order perverse or unsustainable. Furthermore, the petitioner's contention regarding the complainant's right to be heard in bail proceedings has already been addressed, and the learned ASJ's omission of this issue does not vitiate the order, as it aligns with the settled legal position. Accordingly, no interference is warranted in revisional jurisdiction.

65. In view of the absence of any jurisdictional error, procedural irregularity or legal infirmity in the impugned order, this Court finds that no interference is warranted in the revisional jurisdiction under Section 102 of the JJ Act.

66. Upon a comprehensive evaluation of the legal and factual aspects of the case, this Court finds that the JJB correctly determined the age of CCL-SAH as per statutory provisions, and its preliminary assessment under Section 15 of the JJ Act was conducted in accordance with law, leading to a justified conclusion that CCL-SAH should not be tried as an adult.

67. Furthermore, the grant of bail under Section 12 of the JJ Act was legally sound, as none of the statutory exceptions to bail were established by the prosecution. Additionally, there exists no absolute right for the complainant to be heard at every stage of juvenile justice proceedings, particularly in bail matters, as the scheme of the JJ Act prioritizes the rehabilitation of juveniles.

68. The impugned order of the learned ASJ correctly upheld the findings of JJB and no jurisdictional error, procedural irregularity or legal infirmity





has been demonstrated that would warrant interference by this Court. Given that the revisional jurisdiction under Section 102 of the JJ Act is limited to correcting errors of law and procedure and not for reappreciation of evidence, no interference is warranted.

69. In view of the foregoing discussion, the instant criminal revision petition is dismissed and the impugned order dated 16<sup>th</sup> September, 2023 passed by the learned ASJ in Criminal Appeal No. 259/2022 is, hereby, upheld.

70. Accordingly, the instant petition stands dismissed along with the pending application(s), if any.

71. It is made clear that any observations made herein are only for the purpose of deciding the present petition and shall not be construed as an expression on the merits of the case. The learned JJB shall proceed with the matter uninfluenced by any observations made by this Court and shall decide the case strictly in accordance with law.

72. The order be uploaded on the website forthwith.

**CHANDRA DHARI SINGH, J**

**MARCH 11, 2025**  
**rk/kj/mk**