

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL REVISION APPLICATION (FOR REGULAR BAIL) NO. 126 of  
2026**



Versus  
STATE OF GUJARAT & ANR.

=====  
Appearance:

MR MUSAIB I SHAIKH(10565) for the Applicant(s) No. 1  
MR MAHARSHI PATEL ADVOCATE WITH MS HETA PANCHAL  
ADVOCATE FOR HL PATEL ADVOCATES for the Respondent(s) No. 2  
MR BHARGAV PANDYA APP for the Respondent(s) No. 1  
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**CORAM:HONOURABLE MS. JUSTICE GITA GOPI**

**Date : 02/04/2026**

**ORDER**

1. **RULE.** Learned advocates waive service of notice of Rule on behalf of respective parties.
  
2. The applicant, by way of the present revision application filed through his father, under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (herein after referred to as 'the J.J. Act') read with Section 438 and section 442 of the BNSS, 2023, challenges the order dated 19.12.2025 passed by the City Sessions Court No.2, Ahmedabad in Criminal Appeal No.1045 of 2025 and the order dated 17.10.2025 passed in Criminal Misc. Application No.11260 of 2025 by the Juvenile Justice Board, Ahmedabad in connection with FIR being C.R. No.11191003250499 of

2025 under Sections 103(1) and 109(1) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS 2023') and Section 135(1) of the G.P. Act registered before the Khokhra Police Station, Ahmedabad.

3. The Child in conflict with law (herein after referred to as 'the CCL') was aged about 14 years and 9 months at the time of the alleged act and who came to be arrested on 22.08.2025 in connection with the offence punishable under Section 109(1) and 103(1) of BNS 2023 and section 135(1) of the G.P. Act.

4. The case of the prosecution is that the deceased child, on 19.08.2025 at about 12:30 in the morning in front of Jai Shri Meldi Temple, at the entrance of Gate No.7 of Maniyana Society, was arguing with his elder father's son, the Child Witness (herein after referred to as the C.W.) No.12 and C.W. No.19, who had previously quarreled with him, and his friend C.W. No.18. In the meantime, the present CCL, who had previously had a fight with deceased child, allegedly harbouring enmity towards him, suddenly went near him and asked him "Kyun Jhagada Kar Raha Hai" and the deceased child replied as to "Tu Kaun Hain Kya Kar Lega". The CCL, thus got angry and in presence of C.W. Nos.12, 17, 18 and 19 with the knife in his hand gave a single blow on the left side of the abdomen, which was grievous and as the deceased was bleeding, in that condition C.W. Nos.12 and 17 entered Gate No.3 of the Seventh Day School's compound and towards the basement on the passage, both side there were place to sit,

whereupon all had sat there and after sometime, deceased child became unconscious and during that period, the deceased's mother and elder paternal aunt - Kashiben, Durga Munda came altogether and took deceased child in the auto rickshaw of Nanubhai and brought him to Sardar Patel Hospital, where the injured was treated by Doctor and during the treatment at about 2:15 hours he died on 20.09.2025.

5. In the charge sheet it is referred that the present CCL harbouring the previous enmity had injured the deceased on 19.08.2025 at around 12:30 hours at Khokhra, opposite Seven Days School at the end of Gate No.7 of Maniyana Society, on the public road, opposite Jai Shri Meldi Temple with the knife in his hand caused his death with a fatal blow.

6. Learned advocate Mr. Musaib I.Shaikh for the applicant submitted that considering the age of the present CCL as 14 years and 9 months, he would not be governed by the provision of Section 15 of the J.J. Act under which the Board would be called upon to make preliminary assessment into the heinous offence, since the CCL has not completed the age of 16 years.

6.1 Advocate Mr. Shaikh submitted that the Board under Section 15 of the J.J. Act is required to preliminary assess the mental and physical capacity for the commission of such crime of the CCL above the age of 16 years, who had committed heinous offence and the ability to understand the consequences of the offence, and the circumstances in which

the CCL allegedly committed the offence, and thereupon the Board would be mandated to pass an order in accordance to the provision of sub-section (3) of Section 18 of the J.J. Act, thus, it is the submission of Advocate Mr. Shaikh that the mental and physical capacity of the CCL below the age of 16 would not be a matter for consideration. The circumstances has to be brought on record by social investigation report and the past conduct of the child and the Board if it thinks fit would have all the option to follow the provisions made under clause (a) to clause (g) of Section 18 of the J.J. Act.

6.2 Learned advocate Mr. Shaikh submitted that the bail application of the present CCL has to be considered in accordance to the provisions of Section 12 of the Act. Mr. Shaikh stated that necessary criteria would be the mental and physical capacity of the CCL to commit the offence and the ability to understand the consequences of the offence and more importantly, Advocate Mr. Shaikh submitted that the circumstances under which the offence came to be committed would require special consideration, as a child below the age of 16 years would not have any mental culpability for commission of the crime.

6.3 Learned advocate Mr. Shaikh has taken this Court to the report of the Probation Officer, which as per learned advocate Mr. Shaikh is a relevant consideration, as provided under Section 18 of the Act of the Social Investigation Report.

6.4 While referring to the cause of the offence, the Probation Officer has noted that the present CCL and the deceased were studying in the same school, but in different class of standard 10<sup>th</sup>. The first meeting of the CCL with the deceased was about one and half month prior to the incident at the washroom, where the deceased child had given a tap on the CCL's head telling him "Tu School Ma Bahu Vat Kare Chhe Mari Same Wat Karvu Nahi", which would mean as if the CCL was showing his boldness in the school and deceased asked him not to be bold before him; after such utterance, the deceased went away. The Probation Officer in his report recorded that thereafter, whenever the CCL and deceased child would meet there would be quarrelled for any reasons and deceased child was harassing the CCL.

6.5 The Probation Officer has further recorded that ten days prior to the incident in the school lobby, the deceased had spank the CCL on his head, and when the CCL asked deceased child not to do so, the deceased told him "Tu Su Kari Lais"; meaning thereby as to what you would do. So the CCL answered that he would inform the teacher. Hearing so, deceased child retorted saying that the teacher would send him away after punishing, but thereafter he would meet him outside (Teacher Mane Punish Kari Java Dese, Pachhi Tu Bahar Malis Ne"). Therefore, the CCL had not informed anyone about the incident and he got further enraged. After going home, thereafter the CCL had started keeping a folding knife with him.

6.6 The Probation Officer has also reported that the friend of CCL, C.W. No.18, studying in standard 9<sup>th</sup> and his friend C.W. No.19 had a quarrel with C.W. No.12, the paternal cousin of deceased child, which had occurred one week prior to the incident, which came to the knowledge of deceased child, therefore on the date of the incident after school, near the temple of goddess Meldi, a quarrel took place between deceased, C.W.18 and C.W.19, and during the quarrel the CCL was called by C.W.18, at that time, the deceased had forcibly pressed the neck of C.W.19 and the present CCL had come there, intervened and released him. At that time, the deceased told the CCL "Tu Kya Kar Lega". Thus, the CCL got angry and gave a blow with knife on the stomach of the deceased and as reported by the Probation Officer, the CCL ran away from that place and sitting in the van reached his house.

6.7 With these details of the circumstances under which the incident had taken place, the Probation Officer had given a detail report with his own opinion in a positive way about the emotional, physical and intellectual condition of the CCL. The family of CCL was found to be economically stable and had a good repute in the society. The Probation Officer in his opinion has noted that since the child is below the age of 16 years, he is required to be kept in Observation Home, and he requires institutional counselling, and that the counselling process is in progress.

7. Learned advocate Mr. Maharshi Patel along with learned advocate Ms. Heta Panchal for the complainant, the first informant, relying on the judgment of this Court in case of **Child in Conflict with Law Through Zarinaben W/o. Jumabhai Detha Vs. State of Gujarat**, in Criminal Revision Application No.1955 of 2024 delivered on 03.07.2025, and the case of **Arjun Vs. State of Maharashtra**, (2012) 5 SCC 530, submitted that it could not be considered as a right of private defence of the CCL to give a blow to the deceased armed with a knife, where he was already holding a knife in his hand at the time of incident.

7.1 Advocate Mr. Patel also relied on the judgment of **Surender Singh Vs. State (NCT of Delhi)**, (2024) 7 SCC 40, to submit that the benefit of self-defence would not be available to the CCL. Relying on the judgment of **Om Prakash Vs. State of Rajasthan and Anr.**, (2012) 5 SCC 201, advocate Mr. Patel, on the conduct in the case of heinous crimes by the CCL, submitted that it is the duty of the Court to scrutinize the plea of juvenility with the extreme caution to ensure that the plea of minority is not employed to escape punishment. Advocate Mr. Patel submitted that the CCL could not take law in his hands and inflict blow to the extent that the deceased child would not survive.

8. Learned APP Mr. Bhargav Pandya for the State referring to the facts of the case and relying on the report of the Police Inspector, Crime Branch, Ahmedabad City and the judgment

of the Hon'ble Supreme Court in case of **Juveniles in Conflict With Law C vs. State of Rajasthan**, reported in 2025 (0) AIJEL-SC 75412, submitted that the case is progress before the Juvenile Board; almost about 17 witnesses have been examined, the inquest panchnama has been admitted and the important witnesses are yet to be examined.

8.1 As per the police, learned APP Mr. Pandya submitted that the CCL is suffering from serious anger issues and placing reliance on the postmortem report submitted that the injury was penetrating in nature, which had led to death due to shock and hemorrhage as result of stab injury over the left side of the abdomen. Learned APP Mr. Pandya was of the view that a child keeping a knife along with him cannot be considered as innocent, and his bail application should be considered in the form of an adult having a criminal mentality to commit the offence.

8.2 Reliance has also been placed by learned APP on the statement of one C.W.39, which is recorded on 08.09.2025 regarding the chat after the incident on 19.08.2025 with the present CCL, where C.W.39 had inquired about causing death to the deceased child, to impress upon the Court that Chat itself would suggest the criminal mentality of the present CCL. Learned APP submitted that during the time of his stay in the Observation Home, once the CCL had run away, which is also a circumstance to be considered.

9. Heard learned advocates appearing for the respective parties. Section 12 of the J.J. Act clearly overrides the bail provisions as contained in Criminal Procedure Code, 1973 or any other law for the time being in force. Section 12 of the Act, as could be read in its true meaning shows bail to the juvenile is a rule and refusal of the same is an exception. The refusal of the bail can only be on the following grounds:

- (i) If there appears reasonable ground for believing that the release is likely to bring that person in association with any known criminal or,
- (ii) expose the said person to moral, physical or psychological danger or,
- (iii) the person's release would defeat the ends of justice.

9.1 The use of expression "such person shall be released on bail" in section 12(1) of the J.J. Act shows that the grant of bail to the juvenile is mandatory unless grounds for denial of the bail. Seriousness of the alleged offence or the age of the juvenile are also no relevant consideration for denial of the bail under Section 12 of the J.J. Act. Section 12 of the J.J. Act in consonance with the object of the Act intends not to punish the CCL, but to reform and rehabilitate them by proper care, protection, development and social reintegration by adopting a child friendly approach in the adjudication and disposal of the matter in the best interest.

10. In the case of **Child in Conflict with Law Through Savitaben Vitthalbhai Vasava Vs. State of Gujarat, 2022** (0) AIJEL-HC 244005 (passed in CRRA No.901 of 2021 on 28.04.2022), it has been observed as under:

*17. Section 12 of the JJ Act, 2015 which deals with the grant of bail to a child expressly contains the nonobstante phrase to be as “... 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 ...”. This very provision in Section 12 clarifies that provisions of Cr.PC is excluded in the case of bail plea of the child. Further, it requires to be noted that Section 12 is a specific provision under the special statute that deals with the matter of bail and accordingly, the application of Section 439 of the Cr.PC is also necessarily excluded. Cr.PC contains a corresponding clause which is for application on special lines. Considering this aspect in case of a bail application on behalf a child, it would be required to be concluded that such bail plea would not be maintainable under Section 439 of Cr.PC.*

*19. Non-applicability of Section 439 of Cr.PC in case of child in conflict with law has been appreciated by various High Courts. This Court would like to refer to the decision of the High Court of Delhi in the case of CCL 'A' v. State (NCT of Delhi) in Bail Application No.2510/2020 (dated 19.10.2020), where the Court had observed as under :-*

*“44. In formulating the above position, this court finds support in the view taken by the Division Bench of the Chhattisgarh High Court in Tejram Nagrachi Juvenile vs. State of Chhattisgarh Through the Station House Officer<sup>4</sup>, where the Division Bench has opined that an application for grant of bail under section 437 Cr.P.C. or 439 Cr.P.C. would not be maintainable in the case of a juvenile. The relevant paras of the judgment are as under:*

*“7. A conjoint analysis of the provisions contained in Sections 437 and 439 of the Code viz a viz Sections 8, 10 and 12 of the Act, 2015 would discern that while there are certain general guidelines under Sections 437 & 439 of the Code, power in respect of grant of bail to a juvenile is more liberal in the nature of command under Section 12(1) that whenever an apparent juvenile alleged to have committed a bailable or nonbailable offence is detained by the police or*

*appears or brought before a Board, such person shall, notwithstanding anything contained in the Code 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 only rider for not releasing the apparent juvenile is that whenever there appears reasonable grounds for believing that the release is likely to bring that person (Juvenile) into association with any known criminal or expose the said person to moral, physical or psychological danger or his release would defeat the ends of justice, the Board shall record the reasons for denying the bail and circumstances that led to such a decision. This rider as contained in proviso to Section 12(1) requires the Board to record reasons for denying the bail. It would mean that ordinarily the bail is to be allowed to a juvenile. The denial being exceptional on certain reasons to be recorded by the Board as provided in the proviso. This special provision is not contained under Section 439 of the Code.*

*"8. .... While there is no denial of the fact that when the Court of Sessions exercises appellate power under Section 101(2) and the High Court exercises revisional power under Section 102 of the Act of 2015, it shall exercise power of the Board provided under Section 8(2), but this power of the Board would also be available to the Court of Sessions or to the High Court when it proceeds to examine the plea of juvenile for grant of bail whenever such occasion arises on account of bail application of juvenile being rejected under Section 12 of the Act of 2015. Therefore, by use of the term "otherwise" in Section 8(2), jurisdiction under Section 439 of the Code would not be attracted which is otherwise excluded by use of the term "notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force", as occurring in Section 12 (1)." (emphasis supplied)*

*20. The law therefore, is clear on the aspect that since Section 12 of the JJ Act bears a non-obstante clause which indicates legislative intent that the source of power to grant bail under the JJ Act, 2015 is independent from that of the Cr.PC. Thus, it can be said to be concluded that Section 439 of the Cr.PC is not applicable on the issue of grant or denial of bail to a child alleged to have committed bailable or non-bailable offence who is to be dealt with by the Special Statute, i.e. JJ Act, 2015 which contains the specific provision for bail under Section 12 of JJ Act, 2015."*

11. Here, in the present case, as per the Probation Officer's report, the deceased child was continuously bullying the present CCL. The conversation, which took place between the present CCL and the deceased child, as reported by the Probation Officer, would show that since one month prior to the incident, the deceased child was putting the CCL under pressure to the extent that the deceased child had threatened the CCL to face the consequences, in case of complaining the teacher. The Probation Officer's report suggests that since from the day of such a threat, the CCL was keeping a knife along with him. On the date of the incident, it was not that there was a direct quarrel between the CCL and the deceased child.

11.1 As per the Probation Officer, the deceased child was physically assaulting C.W.19 by pressing his neck, at that time, CCL was called by C.W.18 and the CCL had come there and by intervening released all of them, at that time too, the deceased had threatened the CCL and in that circumstances, he gave a knife blow on the stomach.

12. The case of **Barun Chandra Thakur Vs. Master Bholu & Anr.**, in Criminal Appeal No.950 of 2022, was declared on 13.07.2022 [(2023) 12 SCC 401]. The Hon'ble Supreme Court while dealing with section 15 of the J.J. Act for preliminary assessment of child in conflict with law, observed as under:

*"65. While considering a child as an adult one needs to look at his/her physical maturity, cognitive abilities,*

*social and emotional competencies. It must be mentioned here that from a neurobiological perspective, the development of cognitive, behavioural attributes like the ability to delay gratification, decision making, risk taking, impulsivity, judgement, etc. continues until the early 20s. It is, therefore, all the more important that such assessment is made to distinguish such attributes between a child and an adult.*

*66. Cognitive maturation is highly dependent on hereditary factors. Emotional development is less likely to affect cognitive maturation. However, if emotions are too intense and the child is unable to regulate emotions effectively, then intellectual insight/knowledge may take a back seat.*

*70. A child with average intelligence/IQ will have the intellectual knowledge of the consequences of his actions. But whether or not he is able to control himself or his actions will depend on his level of emotional competence. For example, risky driving may result in an accident. But if emotional competence is not high, the urge for thrill seeking may get the better of his intellectual understanding.*

*71. Children may be geared towards more instant gratification and may not be able to deeply understand the long-term consequences of their actions. They are also more likely to be influenced by emotion rather than reason. Research shows that young people do know risks to themselves. Despite this knowledge, adolescents engage in riskier behaviour than adults (such as drug and alcohol use, unsafe sexual activity, dangerous driving and/or delinquent behaviour). While they do consider risks cognitively (by weighing up the potential risks and rewards of a particular act), their decisions / actions may be more heavily influenced by social (e.g. peer influences) and/or emotional (e.g. impulsive) tendencies. In addition, the lack of experience coupled with the child's limited ability to deeply understand the long-term consequences of their actions can lead to impulsive / reckless decision making.*

12.1 In **Barun Chandra Thakur** (supra), the Hon'ble Supreme Court has referred to the factum of cognitive maturation, observing intense emotion, likely to affect the cognitive maturation, the child with average intelligence may

have the knowledge of the consequences of his action, but his ability to control himself in his actions depending on his level of emotional competence.

13. Section 18 of the J.J. Act, deals that while considering the satisfaction of the Board on inquiry of the Child irrespective of the age having committed petty offence, or a serious offence, or a child below the age of sixteen years having committed a heinous offence, then despite anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, and the circumstances as brought out in the social investigation report, the past conduct of the child, the Board may, following the appropriate inquiry and counselling to the child and his parents or the guardian, allow the child to go home after advice or admonition. The provision also deals with the participation in group counselling and similar activities and the child to perform the community service and other needs for development of the child, and has noted that the Board can release the child on probation of good conduct and place him under the care of parent, guardian or fit person, who would on executing a bond with or without surety, as the Board may require, for the good behaviour and child's well being.

14. Having considered the circumstances under which the offence has alleged to have been committed and the report of the Probation Officer of continuous bullying from the side of the deceased child to the CCL and the fact that the CCL is a

school going child, and when the trial will take its own time to conclude, the present CCL is ordered to be released on bail in connection with C.R. No.11191003250499 of 2025 registered before the Khokhra Police Station, Ahmedabad, on the applicant's father executing a personal bond in the sum of Rs.10,000/- with a condition that father would take care of his child for his good behaviour and his well being.

15. It is directed that the Probation Officer shall monitor the conduct of the CCL and shall quarterly submit the report before the concerned Board/Children's Court till completion of the trial. Moreover, if the Probation Officer considers any necessity of sending the juvenile for any behavior modification then necessary therapy and psychiatric support be provided to the child in conflict with law.

16. In view of the above, the present application stands disposed of. Rule is made absolute to the aforesaid extent.

17. Direct service is permitted. Registry to communicate this order to the concerned Court/authority by Fax or Email forthwith.

**(GITA GOPI,J)**

Pankaj/3 (suppl.-III)