

HIGH COURT OF ANDHRA PRADESH

* * * *

WRIT PETITION NO: 22154 OF 2026

Between:

Kethavath Jyothi

.....PETITIONER

AND

The State of Andhra Pradesh and 3 others

.....RESPONDENTS

DATE OF JUDGMENT RESERVED : 17.09.2026

DATE OF JUDGMENT PRONOUNCED : 13.10.2026

DATE OF JUDGMENT UPLOADED : .10.2026

SUBMITTED FOR APPROVAL:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

- | | |
|---|--------|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes/No |

RAVI NATH TILHARI, J

ALAPATI GIRIDHAR, J

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
* THE HON'BLE SRI JUSTICE ALAPATI GIRIDHAR**

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! Counsel for the Petitioner : Ramalakshmana Reddy Sanepalli

Counsel for the Respondents : J.Krishna Praneeth

< Gist :

> Head Note:

? Cases Referred:

1. D.B. CrI.A.No.27 of 2019 of the High Court of Rajasthan
2. W.P.(CrI.) No.102 of 2007
3. 2024:BHC-AS:24700-DB
4. WP(CrI) No.102 of 2007 SC decided on 10.02.2020

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 22154 OF 2026

ORDER: *(per Ravi Nath Tilhari, J)*

Heard Sri Ramalakshmana Reddy Sanepalli, learned counsel for the petitioner and Sri J.Krishna Praneeth, learned Assistant Government Pleader for the respondents.

2. This writ petition for writ of Habeas Corpus under Article 226 of Constitution of India has been filed by the petitioner(paternal aunt of three detenues) named in para-2 of the affidavit said to be the minors under the age of 18 years, for their production and pass such other orders as this Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

3. The petitioner's case is that the detenues 1 & 2 are pursuing the Eleventh Standard at Sri Chiatanya College and S.K.B.R. College, respectively, while detenu No.3 is assisting his parents in agricultural work. All the detenues are children within the meaning of Juvenile Justice (Care and Protection of Children) Act, 2015 (in short 'JJ Act'). Respondent No.5 in the writ petition – the Assistant Sub Inspector of Police, Nagarjunasagar Police Station registered Crime No. 52 of 2026 on the file of Nagarjunasagar Police Station, Palnadu District, dated 31.07.2026 for

the offences punishable under Section 191(2), 191(3), 109(1), 118(1) read with Section 190 of the Bharatiya Nyaya Sanhita, 2023 (in short 'BNSS'). The detenues were arrayed as Accused Nos.8 to 10 respectively.

4. The petitioner's further case is that respondent No.5 after registering the crime conducted investigation and apprehended the detenues on 02.08.2026 at about 10.00 am and they were produced before the Juvenile Justice Board, Guntur on 03.08.2026 at about 2.00 pm., and upon consideration of the material placed the Juvenile Justice Board rejected the request of the police for remand of the detenues. The petitioner's further case is that the respondent No.5 had no authority in law to retain the detenues in police custody or under police control. In the absence of valid remand order passed by a competent judicial authority, the continued custody of the detenues became wholly unauthorized and illegal. However, the detenues were neither released nor handed over to their parents, lawful guardians, relatives or any person legally entitled to receive their custody. Respondent No.5 shifted detenu No.1 to Ladies Hostel and detenues 2 & 3 to a Boys Hostel, under police control and surveillance on 03.08.2026 onwards. Such continued confinement had no sanction of law, arbitrary, unconstitutional, and violative of Articles 21 & 22 of the Constitution of India. It violates the safeguards envisaged under the Juvenile Justice (Care and Protection of Children) Act, 2015

which mandates that every child alleged to be in conflict with law shall be dealt with strictly in accordance with the procedural laws under the supervision of the Juvenile Justice Board.

5. Learned Government Pleader referred to the counter affidavit and submitted that the detenues voluntarily surrendered before the respondent No.4 on 02.08.2026 at about 10.00 am, after which they were duly apprehended by following the procedure prescribed under Sections 47(1) & 48(1) of BNSS and under the relevant provisions of Juvenile Justice Act. They were thereafter produced before the Juvenile Justice Board, Guntur on 03.08.2026. On perusal of the material placed on record, Juvenile Justice Board directed the Investigation Officer to produce the detenues after filing the proof of thier age. Immediately respondent No.4 obtained the study certificate of detenu No.2 but in so far as detenu No.3 is concerned, as he was not pursuing his studies, the Investigating Officer has produced the detenu No.3 before the Medical Officer, GGH, Guntur for age determination test. The Medical Officer insisted for legal guardian. Inspite of several requests made by respondent No.4 on 03.08.2026, 04.08.2026, 05.08.2026, the parents/blood relatives of detenues 2 & 3 did not come forward to cooperate with the police and could not provide any document confirming the age of those detenues. During the interregnum: a) Alleged detainee

No.1 was placed at the Sakhi One Stop Centre, Guntur (a Government-run institution meant for safe custody of women and girls) for her safety and protection; b) Alleged detainee Nos.2 & 3 were placed at Mathru Sri Children's Home, Guntur (a recognised Child Care Institution) and periodically produced them before the Medical Officer for commencement of age determination test. On 05.08.2026, the Investigation Officer produced the detainees 1 to 3 before the Member, Juvenile Justice Board, Guntur and they were directed to produce the detainees before the Chairman, Juvenile Justice Board, Guntur on the next day i.e., 06.08.2026. On 05.08.2026 night, the detainee No.1 was placed at Sakhi One Stop Centre, Guntur and detainees 2 & 3 were placed at Mathru Sri Children's Home, Guntur for safe custody. On 06.08.2026, the police produced the detainees 1 to 3 before the Chairman, Juvenile Justice Board, Guntur and thereupon, the Medical Officer was directed to conduct the age determination test of detainee No.3 by the Chairman, Juvenile Justice Board, Guntur. Later on, age determination test was conducted by the Medical Officer and certificate confirmed the age of detainee No.3, i.e., about 15 to 16 years. Thereupon, the IV Additional Junior Civil Judge – cum – Juvenile Justice Board, Guntur passed the order dated 06.08.2026 directing the safe custody of the Children in conflict with law (CCLs) and pursuant to the said order the detainee No.1 was lodged in Government

Observation Home for Girls, Visakhapatnam and detenues 2 & 3 were lodged in Government Observation Home for Boys, Vijayawada.

6. Learned Government Pleader submitted that the Respondent No.4 in the affidavit submitted that the said respondent never retained and did not at any point of time retain the detenues in police custody after they were produced before the Juvenile Justice Board. The CCLs were kept in safe custody from 03.08.2026 to 06.08.2026, after producing before the Juvenile Justice Board, since no Children's Home for boys was available at Guntur. The parents of detenu No.1 and the father of detenues 2 & 3 were arrested in connection with the very same Crime No.52 of 2026 and were remanded to judicial custody. So, the detenues were placed in recognised institutions for their safety and care, pending appropriate orders of Juvenile Justice Board. Those detenues were, at any point of time, not left without lawful custody nor produced before any authority other than the Juvenile Justice Board and its Chairman. The Violation of Article 21 and 22 of the Constitution of India has been denied. The entire process from the stage of apprehension of the detenues on 02.08.2026 till their repeated production before the Juvenile Justice Board on 03.08.2026, 05.08.2026 and 06.08.2026 was carried out strictly as per law.

7. Learned Government Pleader further submitted referring to para-12 of counter affidavit that detenues were in observation homes pursuant to the custody orders of Juvenile Justice Board and so, the writ petition for Habeas Corpus was not maintainable. The Police discharged the duties diligently in accordance with the provisions of law applicable to Children, in Conflict with Law and in that regard there is no illegality, arbitrariness or unconstitutionality.

8. The petitioner filed the reply affidavit, and interalia reiterated the stand in writ petition and submitted that the detenues were apprehended on 02.08.2026 and were produced before the Juvenile Justice Board, Guntur on 03.08.2026, 05.08.2026 and 06.08.2026. Learned counsel for the petitioner referring to rejoinder affidavit submitted that there was no specific order dated 03.08.2026 authorising the police to retain the detenues or to place them in the institutions/places arranged by the police until 06.08.2026. He submitted that without there being any order of Juvenile Justice Board authorising the police to retain the detenues at the places, they were kept as per the counter affidavit, there was no such legal authority for the police.

9. Learned counsel for the petitioner submitted that the respondents were required to establish the source of authority under which the liberty of the children was restrained during the period from 03.08.2026 till

06.08.2026 and so there was illegal detention. The custody with the police was unauthorised. In the absence of any order of Juvenile Justice Board authorising the police to retain the detenues there was no authority for the police to retain those detenues with CCLS at the place they were kept and the police authorities ought to have released the detenues immediately or handed over them to the lawful guardian.

10. Learned counsel for the petitioner submitted that the only question is, of the illegal detention from 03.08.2026 to 05.08.2026 during which period the detenues were detained at different places without any authority of law as there was no order from the Juvenile Justice Board.

11. Learned counsel for the petitioner relied on:

1) ***Smt. Durga v. State of Rajasthan***¹

2) ***State of Tamil Nadu Vs. Union of India & Ors.***², in
and

3) ***Pooja Gagan Jain v. State of Maharashtra***³ in Criminal Writ
Petition No.2372 of 2024.

12. Learned counsel for the petitioner further submitted that the police officer (Assistant-Inspector of Police) who apprehended and produced the detenues before the JJ Board was not a designated Child Welfare Police

¹ D.B. CrI.A.No.27 of 2019 of the High Court of Rajasthan

² W.P.(CrI.) No.102 of 2007

³ 2024:BHC-AS:24700-DB

Officer (CWPO) under the G.O.Ms.No.12 dated 11.02.2016 issued pursuant to the Section 107 of the Juvenile Justice Act.

13. We have considered the aforesaid submissions and perused the material on record.

14. The contention of learned counsel for the petitioner is that the detenues were apprehended on 02.08.2026 and produced on 03.08.2026, on which date the Juvenile Justice Board rejected the remand. The learned Government Pleader disputed and submitted that the remand was not rejected. The Juvenile Justice Board directed the police to place the age proof, however, the Juvenile Justice Board also did not pass any order for keeping the detenues at what place. The police in view of the above situation, kept them at the places indicated above, which are the authorised places under the JJ Act.

15. Section 10 of the JJ Act reads as under:

10. Apprehension of child alleged to be in conflict with law - (1) As soon as a child alleged to be in conflict with law is apprehended by the police, such child shall be placed under the charge of the special juvenile police unit or the designated child welfare police officer, who shall produce the child before the Board without any loss of time but within a period of twenty-four hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended:

Provided that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail.

(2) The State Government shall make rules consistent with this Act,—

(i) to provide for persons through whom (including registered voluntary or non-governmental organisations) any child alleged to be in conflict with law may be produced before the Board;

(ii) to provide for the manner in which the child alleged to be in conflict with law may be sent to an observation home or place of safety, as the case may be.

16. Section 12 of the JJ Act reads as under:

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 appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the 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.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.

17. Sub-Section 10(2) provides that the State Government shall make rules consistent with the Act inter alia to provide for persons through whom any child alleged to be in conflict with law may be produced before the Board.

18. Section 2(18) defines ‘Child Welfare Police Officer’ which means an officer designated as such under sub-Section (1) of Section 107.

19. Section 107 of the JJ Act provides as under:

“107. Child Welfare Police Officer and Special Juvenile Police Unit –

(1) In every police station, at least one officer, not below the rank of assistant sub-inspector, with aptitude, appropriate training and orientation may be designated as the child welfare police officer to exclusively deal with children either as victims or perpetrators, in co-ordination with the police, voluntary and non-governmental organisations.

(2) To co-ordinate all functions of police related to children, the State Government shall constitute Special Juvenile Police Units in each district and city, headed by a police officer not below the rank of a Deputy Superintendent of Police or above and consisting of all police officers designated under sub-section (1) and two social workers having experience of working in the field of child welfare, of whom one shall be a woman.

(3) All police officers of the Special Juvenile Police Units shall be provided special training, especially at induction as child welfare police officer, to enable them to perform their functions more effectively.

(4) Special Juvenile Police Unit also includes Railway police dealing with children.”

20. In **Smt.Durga v. State of Rajasthan**, it was held that constitution of a Special Juvenile Police Unit in each district head by a police officer not below the rank of a Dy. S.P. with two social workers having experience of working in the field of child welfare of whom one shall be a woman, is a mandate of law. Learned counsel for the petitioner placing reliance on this judgment contended that, there the investigation was not conducted by a Special Juvenile Police as warranted by Section 107(2) of the Act and that was held vitiated. In the present case also he submitted that the detenues were not produced by the Special Juvenile police before the Board. So their custody and production was illegal.

21. The State Government issued G.O.Ms.No.12 dated 11.02.2016, notified, in exercise of the power conferred by Section 107 by the Act and thereunder designated, the Additional Superintendents of Police/ Dy. Commissioner of Police or Additional Deputy Commissioners of Police Andhra Pradesh as heads of Special Juvenile Police Units (Special Juvenile Police Units) under the direct supervision of the respective Unit Officers in districts, Joint Commissioners / Deputy Commissioners of Police (Crimes) in Commissionerates and the Station House Officers/Sub Inspectors of all the Police Stations including Railways, in the State of Andhra Pradesh as Child Welfare Police Officers.

22. G.O.Ms.No.12 dated 11.02.2016 reads as under:

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Home - Constitution of Special Juvenile Police Units and designating Child Welfare Police Officers at all Police Stations in Andhra Pradesh in accordance with Section 107 of the Juvenile Justice (Care and Protection of Children) Act 2015 – Notification - Orders - Issued.

HOME (SERVICES.I) DEPARTMENT

G.O.MS.No. 12

Dated: 11-02-2016

Read the following:-

From the Director General of Police, Andhra Pradesh, Hyderabad, letter C.No.21/C-71/WPC/CID//2016, dated.04-02-2016.

&&&

ORDER:

In the references read above the Director General of Police, Andhra Pradesh, Hyderabad has furnished proposal for designate the SHOs as Child Welfare Police Officer in each Police Station and the Additional Superintendent of Police / Dy. Commissioner of Police or Additional Deputy Commissioner of Police in each District and City Commissionerate respectively, as the head of Spl. Juvenile Police Unit (SJPU) in each Unit. Under Section 107 of Juvenile Justice (Care & Protection of Children) Act 2015, the Government is mandated to create Special Juvenile Police Units (SJPU) at the District Level and appoint Child Welfare Police Officer (CWPO) at the Police Station Level to perform duties under Juvenile Justice (Care & Protection of Children) Act, 2015 while dealing with juveniles, who are in conflict- with - law and juveniles, who are in need of care and protection.

2. Government, after careful examination, hereby issue orders to designating all the Additional Superintendents of Police/ Dy. Commissioner of Police or Additional Deputy Commissioners of Police Andhra Pradesh as heads of Special Juvenile Police Units (Special Juvenile Police Units) under the direct supervision of the respective Unit Officers in districts, Joint Commissioners / Deputy Commissioners of Police (Crimes) in Commissionerates and the Station House Officers/Sub Inspectors of all the Police Stations including Railways in the State of Andhra Pradesh as Child Welfare Police Officers.

NOTIFICATION

3. In exercise of the powers conferred by Section 107 of the Juvenile Justice (CPC) Act 2015, the Governor of Andhra Pradesh hereby sets up Special Juvenile Police Units for the Districts and designates Child Welfare Police Officer for each of the Police Stations with jurisdiction in co- terminus with the jurisdiction of their districts/Commissionerates and Police Stations including Railways respectively as mentioned above.

4. The Director General of Police, Andhra Pradesh, Hyderabad shall take initiative for creating child friendly environment in all the Special Juvenile Police Units and in Police Stations by providing necessary infrastructural facilities. All the designated Child Welfare Police Officers shall be provided with necessary training and orientation to safeguard the Rights of Children as envisaged in Juvenile Justice (Care and Protection of Children) Act, 2015 in coordination with Department of Women Development, Child Welfare & Disabled Welfare and Department of Juvenile Welfare, Correctional Services & Welfare of street, Children, Andhra Pradesh, Hyderabad.

5. The Director General of Police, Andhra Pradesh, Hyderabad shall issue suitable instructions to all the Unit Officers of exhibiting the names and units of Special Juvenile Police Units and Child Welfare Police Officers in the unit headquarters and police stations at all conspicuous places and to implement the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 in letter and spirit.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. MANMOHAN SINGH

PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To

The Director General of Police, Andhra Pradesh, Hyderabad

The Director, Juvenile Welfare, Correctional Services & Welfare of
Street Children, Andhra Pradesh, Hyderabad

The Additional Director General of Police, Crime Investigation Department,
Andhra Pradesh, Hyderabad

The Commissioner of Printing Stationary and Stores Purchase, Hyderabad (2)
Copies with a request to publish the same in Andhra Pradesh Gazette and send
300 copies directly to the DGP, AP, Hyderabad

The Registrar (General), High Court of Andhra Pradesh, Hyderabad.

Copy to:

The Principal Secretary to Government, WD,C&DW Department, Andhra
Pradesh, Hyderabad.

//FORWARDED::BY ORDER//

SECTION OFFICER

23. Learned Government Pleader submitted that on the relevant dates the Police Officer producing child in conflict with law before the Board,

was holding the charge of SHO and so was covered under the expression 'Child Welfare Probation Officer'.

24. In view thereof, the production of the children in conflict with law was by the 'Child Welfare Police Officer'.

25. The factual aspects are that the children in conflict with law/detenues 1 to 3 were apprehended on 02.08.2026 in the offence under Sections 191(2), 191(3), 109(1), 118(1) r/w 190 BNS. According to the State Government they had voluntarily surrendered before respondent No.4 on 02.08.2026 at about 10.00 am. They were produced before the Board on 03.08.2026. On which date the JJB passed the orders directing the Investigation Officer to produce the detenues after filing of age proof of detenues 2 & 3.

26. Learned Government Pleader have filed a copy of docket orders of the Juvenile Justice Board, Guntur dated 03.08.2026 & 05.08.2026 along with a memo vide USR.No.106213 of 2023 dated 11.09.2026.

27. It is so evident that from the order dated 03.08.2026 as under:

"03.08.2026

CICL 1 to 3 produced before JJB, Guntur. Perused the record.

Age proofs of CICL 2 & 3 are not produced before this Board while apprehension of CICL. Hence, **the I.O is directed to produce CICL 1 to 3 after filing of the age proofs of the CICL 2 & 3.**

Aadhar cards will not be considered as age proof for CICAL.

Hence returned.”

28. On 05.08.2026, the children with conflict with law were again produced before the members of the JJB, Guntur, on which date the following order was passed:

“5.08.2026

CICAL 1 to 3 produced before the member of JJB, Guntur.

Age proof of the CICAL -2 is compiled.

Age proof of the CICAL -3 is not complied.

Further CICAL's reported they have to confession statement before the member, the member has no authority to record the statements.

As per instructions issued by the Hon'ble Prl. District Judge, Guntur in Dis No.5727 dated 26.10.2024 apprehension of CICAL is not correct after 6.00 pm **because there are no children home for boys in Guntur. Hence IO is directed to produce the CICAL's on the next day morning i.e., 06.08.2026 before the chairman JJB, Guntur for necessary orders, Hence returned.**

The guardians of CICALs not appear before the Board.”

29. Learned counsel for the petitioner confined his submission to the period of detention from 03.08.2026 upto the remand was allowed on 06.08.2026 i.e. the interregnum period.

30. Section 10 of the Juvenile Justice (Care and Protection of Children) Act, 2015 provides that as soon as a juvenile in conflict with law is apprehended by police, he shall be placed under the charge of the special juvenile police unit or the designated Child welfare police officer, who

shall produce the child before the Board without any loss of time but within a period of 24 hours of apprehending the child excluding the time necessary for the journey, from the place where such child was apprehended. The proviso to Section 10 provides further that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in jail.

31. Section 12 sub-Section(1) provides that 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. The proviso says that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the 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.

32. Sub-Section (2) of Section 12 of JJ Act provides that if such a person is not released on bail by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board. Similarly sub-Section (3) also provides that when such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

33. In ***Re Exploitation of Children in Orphanages in the State of Tamil nadu v. Union of India***⁴, the Hon'ble Apex Court held that as per Section 10 of the Act, when a child alleged to be in conflict with law is apprehended by the police, such child should be placed under the charge of the special juvenile police unit or the designated child welfare officer. Such authority should produce the child before the Juvenile Justice Board (in short JJB) without any loss of time but within 24 hours after the child is apprehended. The proviso to the Section clearly lays down that a child alleged to be in conflict with law shall not be placed in a police lockup or lodged in a jail. The Hon'ble Apex Court further held that in view of Section 12 of the Act, even if bail is not granted, the child cannot be kept in jail or police lockup and has to be kept in an observation home or place

⁴ WP(CrI) No.102 of 2007 SC decided on 10.02.2020

of safety. The Hon'ble Apex Court observed that it is the duty of the JJBs to ensure that the child is immediately granted bail or sent to an observation home or a place of safety. Once a child is produced before a JJB, bail is the rule. The only embargo created is that in case the release of the child is likely to bring him into association with known criminals or expose the child to moral, physical or psychological danger or where the release of the child would defeat the ends of justice, then bail can be denied for reasons to be recorded in writing.

34. Relevant portion from ***Re Exploitation of Children in Orphanages in the State of Tamil nadu*** (Supra) by the Hon'ble Apex Court is as under:

“The Juvenile Justice (Care and Protection of Children) Act, 2015, (hereinafter referred to as the Act) is a special enactment meant for protection of children. Section 10 of the Act, lays down that when any child alleged to be in conflict with law is apprehended by the police, such child should be placed under the charge of the special juvenile police unit or the designated child welfare officer. The Section further provides that such authority should produce the child before the Juvenile Justice Board (JJB for short) Board without any loss of time but not more than 24 hours after the child is apprehended. The proviso to the Section clearly lays down that a child alleged to be in conflict with law shall not be placed in a police lockup or lodged in a jail.

Once a child is produced before a JJB, bail is the rule. Section 12 of the Act reads as follows :-

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(2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the 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.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such

officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.

Sub-section (1) makes it absolutely clear that a child alleged to be in conflict with law should 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 embargo created is that in case the release of the child is likely bring him into association with known criminals or expose the child to moral, physical or psychological danger or where the release of the child would defeat the ends of justice, then bail can be denied for reasons to be recorded in writing. Even if bail is not granted, the child cannot be kept in

jail or police lockup and has to be kept in an observation home or place of safety.

All JJBs in the country must follow the letter and spirit of the provisions of the Act. We make it clear that the JJBs are not meant to be silent spectators and pass orders only when a matter comes before them. They can take note of the factual situation if it comes to the knowledge of the JJBs that a child has been detailed in prison or police lock up. It is the duty of the JJBs to ensure that the child is immediately granted bail or sent to an observation home or a place of safety. The Act cannot be flouted by anybody, least of all the police.”

35. In **Pooja Gagan Jain v. State of Maharashtra**, it was held that in no case the child shall be placed in a police lockup or lodged in jail. If the child is not released on bail by the Officer incharge then he shall be kept in observation home or place of safety as the case may be or if such a person is denied bail, then the Board shall send him to observation home or place of safety which are institutions authorized to temporarily receive a child so that he can be taken care of and rehabilitated under the Act. It was observed that the detention in observation time or place of safety is only in the circumstances when the child is not released on bail or when he is not placed under the supervision of the probation officer or under the care of any fit person.

36. Observation home as provided in Section 47 of the Act are the institutions established by the State Government in every district or group of districts either by itself or through voluntary or non-governmental organisations, which are registered under Section 41 of the Act for

temporary reception, care and rehabilitation of any child alleged to be in conflict with law, during the pendency of any inquiry under the Act.

37. 'Place of safety' has been defined under Section 2(46) which means any place or institution, not being a police lockup or jail, established separately or attached to an observation home or a special home, as the case may be, the person in-charge of which is willing to receive and take care of the children alleged or found to be in conflict with law, by an order of the Board or the Children's Court, both during inquiry and ongoing rehabilitation after having been found guilty for a period and purpose as specified in the order.

38. In view of the definition of 'place of safety' under Section 2(46) and the 'observation home' under Section 2(47) read with Sections 10 its proviso, and Section 12, in our view it is clear that it is only when the child in conflict with law is not released on bail by the officer incharge of police station in case of bailable offence under Section 12(1) or by the Board, in case of non bailable offence under Section 12(2) such child shall be kept in an 'observation home' or a 'place of safety' to be taken care of during pendency of the inquiry under the Act. Child in conflict with law cannot be placed in a Police lockup or lodged in a Jail.

39. The alleged Detenu No.1 was placed at the Sakhi One Stop Centre, Guntur (a Government-run institution meant for safe custody of

women and girls) for her safety and protection and the alleged Detenue Nos.2 & 3 were placed at Mathru Sri Children's Home, Guntur (a recognized Child Care Institution).

40. Learned counsel for the petitioner has not disputed the aforesaid aspect. He has raised the submission that there was no order of JJB for placing those detenues in those institutions/places.

41. The orders of JJB dated 03.08.2026 and dated 05.08.2026 do not show that any specific order for sending of children in conflict with law to an observation home or a place of safety, was not passed. The bail was not granted. The remand in specific words was not ordered. But the children in conflict with law on both the dates of production were 'Returned'. Children in conflict with law were produced by Police so 'returned', means 'returned to police' for production on the other date by the Police 'Remand' was not rejected. Once the children in conflict with law were 'returned,' they had to be placed in an 'observation home' or a 'place of safety' but the JJB did not pass any such order observing that 'there are no children home for boys in Guntur'.

42. The contention of learned counsel for the petitioners is that placing the child in conflict with law at the places aforesaid without any order of the JJB is illegal detention in the custody of Police. This contention deserves rejection. The detenu/'child in conflict with law' on being

apprehended were produced within a period of 24 hours of such apprehension, before the JJB. On this aspect there is no contrary argument. It is not that they were not so produced. In the light of the orders of the JJB dated 03.05.2026 & 05.08.2026, the question is what action or procedure ought to be adopted by the police officer, who produced the children in conflict with law before the JJB which 'returned' them to the Police. Unless the bail was granted, children in conflict with law could not be set free by the Police of their own and particularly when they were to be produced again before the JJB. As per the order, the parents or guardian also did not appear. The Police, under the circumstances, had to place them at some place.

43. Section 10 of the Act, and its proviso which provides that in no case, a child alleged to be in conflict with law shall be placed in a police lockup or lodged in a jail. So the child in conflict with law shall not be placed in a 'police lock up' or 'lodged in a jail'. Admittedly, they were not placed in the 'police lock up' or 'lodged in jail'. Section 12(2) of the Act provides that when such person having been apprehended is not released on bail under sub-section (1) by the officer in charge of the police station, such officer shall cause the person to be kept only in an observation home' or 'place of safety', Sub-Section (3) also provides that When such person is not released on bail under sub-section (1) by the Board, it shall make an

order sending him 'to an observation home' or 'a place of safety'. The aforesaid legal provisions make it clear that the child in conflict with law, not being released on bail, either by the officer incharge of the police station or by the Board, he shall be kept only in observation home or a place of safety. There is no observation home in Guntur for boys, is not disputed.

44. We are of the view that under the circumstances of the present case, keeping in view the legislative mandate for placing the children in conflict with law under Sections 12(2) & (3) as also Sections 10 proviso, if the Police kept the detenues 1 to 3 at the places mentioned above, i.e., the Government run institution meant for the safe custody of women & girl and at Recognised child care institution (the boys), pending enquiry and for their production again before the JJB, we do not find any illegality in such action of the Police or even contrary to the mandate of law.

45. The submission of the learned counsel for the petitioner that since there was no order for the detention of the detenues for the aforesaid places, without the order of JJB, there would be an illegal detention and the detenues would be entitled for release, does not carry force.

46. Learned counsel for the petitioners could not point out, on our query made to him that under the present circumstances, what the police could have done and where the children in conflict with law could have been

placed, he only submitted that the police ought to have released the children in conflict with law or handed over them to the petitioners.

47. We are not satisfied. Unless the bail was granted, the police could not release the children in conflict with law and when they were 'returned' to the police by order of JJB for production again before the JJB. They had already been produced before the JJB within 24 hours. If they had not been produced within 24 hours then certainly their release could be directed.

48. Considering the facts and circumstances in the present case, before parting with the judgment we issue directions:

A) to all the Juvenile Justice Boards in the State of Andhra Pradesh to ensure that at the time of passing the order in relation to the child alleged to be in conflict with law, produced before the Board, specific orders are passed for placing the child to observation home or a place of safety during the pendency of enquiry, if the bail is not granted. The JJB should not make simple return to leave the CCL to the police and to place CCL at the discretion of the police to decide where to place the CCL pending enquiry, and

B) to the Principal Secretary to the Women, Children, Deferently abled and Senior Citizens (JJ & Genl) Department, to ensure establishment of sufficient number of observation homes, at least one each, in every

district. Though, an observation home for a group of districts is also contemplated by the JJ Act, but it would be preferable and in furtherance with the legal mandate to have atleast one observation home in each District.

We hope the State shall take necessary effective steps in that regard.

49. With the aforesaid directions and observations but as the writ petition is devoid of merit, it is dismissed.

No order as to costs.

As a sequel thereto, miscellaneous petitions, if any pending, shall also stand closed.

RAVI NATH TILHARI, J

ALAPATI GIRIDHAR, J

Dated: 13.10.2026

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copy to:

1. The Principal Secretary to the Women, Children, Deferently abled and Senior Citizens (JJ & Genl) Department.
2. All the Principal Magistrates of Juvenile Justice Boards in every Districts.

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

THE HONOURABLE SRI JUSTICE ALAPATI GIRIDHAR

WRIT PETITION NO: 22154 OF 2026

Dated: .2026

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