2026:AHC:235589

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 8426 of 2026

Master X Juvenile

.....Appellant(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Appellant(s)	:	Prakash Chandra Srivastava, Vishnu Prakash
Counsel for Respondent(s)	:	G.A., Siddharth Chaudhary

A.F.R.

Court No. - 88

HON'BLE ABDUL SHAHID, J.

1. Heard Sri Prakash Chandra Srivastava assisted by Sri Vishnu Prakash, learned counsel for the appellant, Sri Rajesh Kumar Singh, learned A.G.A. for the State and Sri D.R. Chaudhary, Senior Advocate, assisted by Sri Siddharth Chaudhary, learned counsel for the opposite party no. 2/informant.

2. The present appeal has been filed against the impugned order dated 05.05.2026 passed by learned Additional District and Sessions Judge/Special Judge POCSO, Baghpat, in Bail Application No. 812 of 2026, Master X Juvenile vs. State of U.P. in Case Crime No. 189 of 2022, under sections 147, 148, 149, 307 and 396 I.P.C., Police Station Doghat, District Baghpat.

3. Learned counsel for the appellant has submitted that the present appeal has been preferred under section 101(5) of Juvenile Justice (Care and Protection of Children) Act, 2015 (later referred to as J.J. Act, 2015 for the sake of brevity).

4. At the outset, learned counsel for the appellant has relied on the section 10 of the J.J. Act, 2015 which is as follows:

> *".....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."*

5. He has further relied on section 12(3) of J.J. Act, 2015 which is as follows:

> *"12(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."*

6. Learned counsel for the appellant has further relied on section 19(3) of J.J. Act, 2015 which is as follows:

> *"19(3) The Children's Court shall ensure that the child who is found to be in conflict with law is sent to a place of safety till he attains the age of twenty-one years and thereafter, the person shall be transferred to a jail:*
>
> *Provided that the reformative services including educational services, skill development, alternative therapy such as counselling, behaviour modification therapy, and psychiatric support shall be provided to the child during the period of his stay in the place of safety."*

7. He has further submitted that the appellant is a juvenile and has not been sent to an observation home; instead, he is being kept in a regular jail. A juvenile shall not be kept in jail and must only be sent to an observation home. Hence, he has been illegally detained. He has further submitted that the appellant has been kept in a regular jail for a period of four and a half years.

8. Learned counsel for the appellant has relied on the para 9 of the judgment passed by the Supreme Court in Juvenile Delinquent Versus State of U.P. and others, 2026 SCC OnLine SC 645 which is as follows:

> *"9….. we were of the view that the report of the Registrar General was based on improper understanding of law. Therefore, on 27.02.2026, following directions were issued -*
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> *(3) It is a matter in which despite declaration of petitioner as juvenile by the Juvenile Justice Board (JJB) vide order dated 23.06.2023, he was kept into regular jail and pretext of non-communication has been put forth. However, vide order dated 28.11.2025, this Court directed to release the petitioner on bail."*

9. He has further submitted that the appellant is also entitled for the

compensation as awarded by the Supreme Court.

10. Sri D.R. Chaudhary, learned Senior Advocate, assisted by Sri Siddharth Chaudhary, learned counsel for opposite party no. 2/informant, submits that at the time of the offence, the age of the juvenile was 17½ years. Now, he is more than 21 years old; hence, there is presently no illegality in his detention. His first bail application was already rejected by the learned trial court and this is his second bail application.

11. Learned counsel has further produced a certified copy of the order sheet of Sessions Trial No. 521 of 2023, under Section 396 I.P.C., Police Station Doghat, District Baghpat), showing that the entire prosecution evidence has been concluded before the learned trial court. The matter was posted on 06.11.2026 for recording the statement of the accused under Section 313 Cr.P.C. on 17.11.2026 (today). He submits that the trial is practically complete, the juvenile has committed a serious and heinous offence, and he is not entitled to be released on bail. Furthermore, there is no question of awarding any compensation, as the juvenile has already attained the age of 21 years.

12. The present criminal appeal has been preferred against the impugned order dated 05.05.2026 passed by the Children's Court/learned Additional District and Sessions Judge/Special Judge, POCSO Act (Exclusive Court), Baghpat. The facts submitted before the learned trial court were that the juvenile is innocent and has been falsely implicated in the present case, having no concern, directly or indirectly, with the alleged offence. There is no evidence of him committing dacoity and murder, nor has any specific role been assigned to him either in the F.I.R. or in the statements recorded under Section 161 Cr.P.C. No recovery has been effected from the possession of the juvenile, and there is no apprehension of any threat or intimidation to the witnesses by him at this stage. Additionally, the juvenile has no prior criminal history. He was declared a juvenile by the Juvenile Justice Board on 17.05.2023, having been found to be between 16 and 18 years of age at the time of the incident; consequently, his file was referred to the learned Additional District and Sessions Judge/Special Judge (POCSO Act) for trial. The first bail application moved on behalf of the juvenile before the Juvenile Justice Board was dismissed on 07.07.2023. An appeal preferred against that

order before the learned Additional District and Sessions Judge/POCSO Act was also dismissed on 29.11.2023. Thereafter, a criminal revision was filed before this Court which too was dismissed. Since 31.07.2022, the juvenile has been languishing in the district jail. Accordingly, it is prayed that he be enlarged on bail.

13. The learned trial court rejected the second bail application of the juvenile/appellant after perusing the entire record. The learned trial court recorded a finding that charges have been framed against the juvenile for attempting to commit dacoity with the intention to cause death, and for committing the murder of Shubham alias Mrigendra, the brother of the informant, Ajendra alias Bharat. It was further observed that the juvenile caused the murder of the deceased by assaulting him with an iron rod, lathi, and a country-made pistol. Since the first bail application of the juvenile had already been rejected, no fresh ground had been taken, prosecution evidence remained to be recorded, and the offence was of a grievous nature, the court concluded that considering the seriousness and gravity of the offence there was no ground to grant bail. Consequently, the second bail application was rejected by the Children's Court vide order dated 05.05.2026. Hence, the present appeal has been filed before this Court.

14. The issues raised by the learned counsel for the appellant in the present appeal are entirely new and were neither raised nor urged before the learned trial court when the second bail application was presented before the Children's Court. The actual facts regarding the period of incarceration specifically when and why the appellant was lodged in a regular jail instead of being sent to an observation home must first be placed before the learned trial court. The impugned order dated 05.05.2026 pertains solely to the rejection of the juvenile's second bail application, and the present appeal has been preferred strictly against that order.

15. Sri D.R. Chaudhary, learned Senior Counsel appearing for the informant, has categorically submitted that the entire prosecution evidence has already been concluded. He further contends that the appellant has attained the age of 21 years, and therefore, his detention in a regular jail does not presently suffer from any illegality.

16. The certified copy of the order sheet produced by the learned Senior

Counsel indicates that the Sessions Trial is fixed for recording the statement of the accused under Section 313 Cr.P.C. on 17.11.2026. The same is taken on record and shall form part of the record.

17. The first bail application of the appellant/juvenile was rejected by the Juvenile Justice Board on 07.07.2023. Thereafter, the appellant preferred an appeal under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015, which was dismissed on 29.11.2023. Being aggrieved by the said order, the appellant/juvenile preferred Criminal Revision No. 5163 of 2024 (Master X Juvenile vs. State of U.P. and others) before this Court, which was dismissed by a detailed order dated 02.12.2024.

18. In the said criminal revision, vide order dated 02.12.2024, this Court has observed in para nos. 13 and 14 which are as follows:

> *"13- Main substratum of arguments of learned counsel for the revisionist is that in the first information report, general role of assault and firing has been assigned to seven accused persons named in the F.I.R. There is no recovery of any incriminating article from the possession of the revisionist and there is no adverse report of District Probation Officer against the revisionist.*
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> *14- Learned counsel for the revisionist, assailing the impugned orders, submits that the revisionist was a juvenile on the date of the alleged incident dated 26.07.2022 and he has been declared juvenile vide order dated 17.05.2023 of Juvenile Justice Board treating the age of revisionist as 17 years, 06 months and 20 days on the date of alleged incident. The revisionist has remained confined in juvenile home since 27.07.2022."*

19. There is a specific observation by this Court in that order to the effect that the revisionist/juvenile has remained confined in a juvenile home since 27.07.2022. This fact was neither objected to nor raised by the appellant/revisionist/juvenile at any stage, either before the learned trial court or before this Court in the earlier criminal revision. It was specifically observed by this Court that the revisionist/appellant/juvenile has remained confined since 27.07.2022, and both the nature of the offence and a specific role have been attributed to him.

20. Learned A.G.A. for the State has also submitted, as recorded in paragraph 16 of the said judgment dated 02.12.2024, as follows:

> *"16- …...The revisionist is a person of hardened criminal mind and is also an imminent danger to the public at large. It is also contended that the bail sought for has been rightly refused in view of Section 12(1) of Juvenile Justice (Care and Protection of Children) Act, 2015."*

21. This Court has duly observed in para nos. 17, 18, 19 and 20 of the said judgment which are as follows:

> *"17. Having considered the arguments so advanced by learned counsel for the parties, this Court is of the view that a juvenile offender who is above 16 years of age and below 18 years of age is not entitled as of right to be enlarged on bail. The Court has to see whether the opinion of the learned appellate Court as well as Juvenile Justice Board recorded in the impugned judgment and orders are in consonance with the provision of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 12 of the aforesaid Act lays down three contingencies in which bail could be refused to juvenile. They are:-*
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> *(i) if the release is likely to bring him into association with any known criminal, or*
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> *(ii) expose him to moral, physical or psychological danger, or*
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> *(iii) that his release would defeat the ends of justice."*
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> *18. Having gone through the record, this Court finds that bail applications of co-accused, namely, Kalyan, Netrapal and Nikhit @ Aditya against whom similar role was attributed have been rejected by the coordinate Bench of this Court. Since the age of revisionist is above 16 years and below 18 years and the offence of committing murder is heinous in nature, his trial is going on as an adult, therefore, in view of the legal position applicable to the present case, in case of conviction of the revisionist, he can be sentenced for more than three years except life or death. In case, the revisionist is released on bail, there is a strong possibility of his being in danger morally, physically or psychologically and he may again get involved in criminal activities. In the matter of bail*

of juvenile, the Court has to see literally through a prism having three angles, i.e. firstly, the angle of welfare and betterment of the child itself, secondly, the demands of justice to the victim and her family and thirdly, the concerns of society at large. Under the facts and circumstances of the case, in case revisionist is released on bail, then his release would defeat the ends of justice.

19- In view of the above, the findings recorded by the learned Courts below are not erroneous and cannot be said to be unsustainable. The aforesaid impugned orders are not liable to be interfered with, which are wholly impeccable.

20- As a fall out and consequence of the above, the present criminal revision lacks merit and is, accordingly, rejected."

22. No fresh ground for enlarging the appellant/juvenile on bail has been submitted either before this Court or before the learned Children's Court, which rejected the second bail application. Meanwhile, learned Senior Counsel has duly apprised this Court that the entire prosecution evidence has already been concluded, the case is fixed for recording the statement of the accused under Section 313 Cr.P.C. on 17.11.2026, and the trial court is on the verge of pronouncing its judgment on the merits.

23. Recently, the Hon'ble Kerala High Court in **Writ Petition (Criminal) No. 1746 of 2026 (Vinod Vikraman Pillai vs. State of Kerala and others)** observed as follows:

"...Addressing the recent incidents showing that persons below 18 years of age caused fatal accidents, and motor vehicle mishap after concluding alcohol, taking advantage of the easy supply and availability of liquor to them without any restriction, ignoring the statutory restrictions, this Writ petition would require hearing. That apart, it is high time for the legislatures to consider appropriate amendments in the statutes which deal with the 'juveniles and child in conflict' with law to reduce age to 16 years, taking note of the present trend showing sufficient maturity by children when they reach the age of 16. This aspect also to be appropriately addressed."

24. In view of the facts and circumstances of the present case, where the appellant/juvenile is involved in a heinous offence of dacoity with murder under Section 396 I.P.C., and his age was determined by the Juvenile Justice Board to be 17 years, 6 months, and 20 days at the time of the incident and taking note of the aforementioned observations of the Hon'ble Kerala High Court regarding the sufficient maturity attained by children upon reaching the age of 16 years, this aspect may be duly considered by the legislature.

25. Considering all the facts, circumstances, and reasons stated above, this Court finds neither any illegality nor any irregularity in the impugned order dated 05.05.2026. The entire prosecution evidence has already been concluded, the case is posted for recording the statement under Section 313 Cr.P.C., and the trial is almost concluded and on the verge of pronouncement of judgment. Consequently, this criminal appeal is devoid of merit.

26. Accordingly, the present criminal appeal is dismissed.

(Abdul Shahid,J.)

November 17, 2026
K.K. Maurya

Digitally signed by :-
KAMLESH KUMAR MAURYA
High Court of Judicature at Allahabad