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Rights of child in conflict with law when implicated in a criminal activity and his right to get bail

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Abstract
The children are the asset of a nation and it should not be considered a liablity for a nation. The childreen as inharent right of care and protection besides other basis Human Right like right to life, liberty, equality, nondiscrimination, health and education etc. some time some offence is commitive by a juvenile / child who has been termed as child in conflict with Law. While granting bail to C.C.L, the Juvenile Justice Board and Children Board deny the bail assuming that grant of bail will defeat the ends of justice despite the basic Principle of Law that bail is a right and jail is an exception. This paper will discuss the ground on which a bail to C.C.L can be denied.

Keywords: Juvenile justice, child in conflict with law (CCL), bail, children's rights, human rights

Introduction

The children being more vulnerable part of the society are being exploited in one way or the other. Every individual including children has every right to live with dignity in such an environment which is conducive to his or her existence and development. Many countries including India has implemented various enactments to ensure the safety of the children and their basic human rights.

The Ganeva Declaration [1924] was adopted by the assembly of League of Nations and it was incorporated in five measures later on adopted by General Assembly on 20-11-1959

In 1946, the temporary social commission of the economic and social council recommended that the aforesaid provisions should be treated as binding on the people of post second world war countries.

In 1959, the preamble of this declaration on the rights of child was adopted by General Assembly of United Nation on 20.11. 1959 which runsas under-

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of

the human person, and in the equal rights of men and women and of nations large and small;

Whereas the United Nations, through its Universal Declaration of Human Rights, has declared that all individuals are entitled to all rights and freedoms stipulated in the declaration without any distinction whatsoever based on race, color, sex, language, religion, political or other opinions, national or social origin, property, birth or other status

While a child, because of his physical and mental immaturity, requires specific protection and care, including legal protection, before as well as after birth

While the requirement for specific protection has already been declared in the General Declaration of the Rights of the Child, 1924 and reaffirmed in the Universal Declaration of Human Rights as well as in the statutes of specialized agencies and international organizations devoted to the welfare of the children

While mankind owes the best to the child.

The United Nations Children's fund was established on 11.12.1946 and World Summit for Children was held in 1990.

Kofi A. Annan, Secretary-General of the United Nations (2000). observed that: "There is no trust more sacred than the one the world holds on the children.' There is no duty more important than ensuring that their rights are respected, that their welfare is protected, that their lives are free from fear and want and that they grow up in peace." There have been many concerns over the well-being of children at international and national levels. The high vulnerability of children towards exploitation got highlighted on the international platform and consequently led to the formulation of various instruments related to the rights of children. It is essential to understand all these instruments because they are the foundation for the rights of children in India."

In India, the rights of the children are protected under indian constitution as well as various enactments. A child who has not completed his 18 years of the age and has been involved in commission of an offence then he is termed as child in conflict with law and is governed under The Juvenil; e Justice (Care and Protection OF Children) Act 2000 and rules framed under that act. Law for children who are believed to be in conflict with the law, as well as children who need care and protection, that seeks to provide for the basic necessities of life to such children through care, protection, development, treatment, social integration, by taking up a child-friendly approach in the adjudication and disposal of cases for the benefit of such children.

The constitutional provisions empower and impose certain obligations on the State in Clause (3) of Article 15, Clauses (e) and (f) of Article 39, Articles 45 and 47, to ensure that all the needs of children are satisfied and that their fundamental human rights are safeguarded. India has ratified the Convention on the Rights of the Child on 11th December, 1992 adopted by the General Assembly of the United Nations which sets out a set of standards to be followed by all State parties in ensuring the best interest of the child and it is necessary to re-enact the Juvenile Justice

(Care and Protection of Children) Act, 2000 (56 of 2000) in order to provide comprehensive provisions for children alleged and found to be in conflict with law and children in need of care and protection keeping in view the standards set out in the Convention on the Rights of the Child, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 1985 (the Beijing Rules). The basic principles of the Juvenile Justice system have been mentioned in Rule 3 of the Juvenile Justice (Care and Protection of Children) Rules, 2007. The State Government, Juvenile Justice Board, Child Welfare Committee and other such competent authorities/agencies will perform their duties according to these principles which include the following:

1. Prima facie presumption of innocence.
Any child is presumed to be innocent of any mala fide or criminal intention up to the age of eighteen years.

2. Principle of dignity and worth
All human beings shall be treated with equal dignity and rights.

3. Principle of participation
Every child shall be entitled to have a voice and participate in all processes and decisions affecting his/her interest and the child's view shall be considered with due regards to the age and maturity of the child.
4 Principle of Best Interest:
All decisions made in respect of the child shall primarily consider what is best for the child in order to enable him/her to realize their full potential.

4. Principle of Family Responsibility
The primary responsibility of care, nurturing and protection of the child is that of the biological family or adoptive and foster parents, as the case may be.

5. Principle of Safety
All measures shall be undertaken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter.

6. Positive Measures
All resources are to be mobilized, including those of the family and community, in promotion of wellbeing, facilitation of development of
identity and providing an inclusive and enabling environment for reducing vulnerabilities of the children.

7. Principle of Non-stigmatizing Semantics
Adversarial or accusatory words are not to be used in the processes pertaining to a child.

8. Non-waiver of rights of children principle
The waiver of any right of the child shall not be valid, regardless of whether it is done by the child himself/herself or by someone representing the child or by a board/committee; also, the non-use of any fundamental right shall not be treated as a waiver.

9. Equality and non-discrimination principle
There should be no discrimination against the child on any ground including sex, race, caste, birthplace, disabilities, and access, opportunities, and treatment should be available to all children.

10. Privacy and confidentiality of children principle
Every child should have the right to privacy and confidentiality in every possible way throughout the entire process of justice.

11. Institutionalization as a last resort principle
It should be a measure of last resort for the child to be put into an institution only after doing due inquiry.

12. Repatriation and restoration principle
Every child in the juvenile justice system is entitled to reunion with his/her family as quickly as possible and restoring him/her back to the same economic and social position that he/she was in prior to being covered under the Act, unless such repatriation and restoration is not in the interest of the child. Principle of fresh start:
Past records of any child in the Juvenile Justice System are to be wiped out, save for exceptional cases.

13. Principle of diversion
Steps to deal with children in conflict with law without recourse to judicial process will be encouraged, unless it is in the best interest of the child or the community as a whole.

14. Principles of natural justice
Procedural norms of fairness will be followed, which includes fair trial, principle against bias and principle of review by all individuals/authorities, in their capacity as judiciary under this Act.

Provisons of bail for child in conflict with law
The bail of Child In conflict with law is governed by section 12 of Juvenile Justice (Care and Protection) Act which runs as under

Section 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 abailable 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 persons 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 1[or a
3. place of safety, as the case may be] in such manner as may be prescribed until the person can be brought before a Board.
4. 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.
5. 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. Thus while granting bail the board has to consider the fundamental principle of presumption of innocence of the child in conflict with law. As per section 3 of Juvenile Justice (Care And Protection) Act 2015 presumption of innocence states that a child in conflict with law will be considered innocent up to the age of 18 years. It has to be taken into consideration in all the processes of protection and justice beginning from initial contact to aftercare including alternative care. In some cases, a child in conflict with law performs an act out of necessity or because of his environment or situational compulsions and the act is performed either under the influence of adults or peers and the above act also has to come under presumption of innocence. There are three
6. Basic elements of presumption of innocence and those are age of innocence, protection of innocence and legal aid provisions. Under the above principle, mental and intellectual maturity of child in conflict with law up to the age of 18 years is considered immature throughout the world.

By going through Section 12 of the Act, one finds out that usually a child in conflict with law needs to be released on bail, regardless of the nature of the crime which the child is said to have committed, unless the evidence proves that his/her release may lead him/her to fall into association with any criminal or put him/her in danger, either moral, physical or psychological, or that his/her release will make him/her defeat the ends of justice. In other words, Section 12 of the Act is a special section which requires the Court not to deny the release of a child on bail except for the cases stated in this very section, namely when he/she be released, there are reasonable grounds for believing that he/she will be involved in any criminal or will fall into moral, physical or psychological dangers or that he/she will defeat the ends of justice.

At the time of consideration of bail under Section 12 of the Act, the merit or nature of offence has no relevancy. The language of Section 12 of the Act, using the word "shall" is mandatory in nature and providing non-obstante clause by using the expression "notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force be released on bail"illustrates the intention of the Legislature in granting bail to the juvenile delinquent who is produced before the Court on an arrest, but only in so far as he is not released on bail if there are any reasonable grounds for believing that his release from custody is likely to put him in any association with any known criminals or put him to any danger of morals, physical or mental nature or that his release from custody would result in defeating the ends of justice. It is for the Prosecution to put forward all such material during the course of opposition to bail which may justify the Court in not releasing the juvenile on bail.

First two grounds to deny bail are based onreport of Probation officer;sSocialInvestigation Report and child psychologist's report but third ground 'Defeat the ends of justice'is an intricate ground and open to judicial discretion.Although section 12 of the act mandates the grant of bail with some excptions but defeat the ends of justice is allows JJB and children courtsto deny release if the circumstances suggest that in case bail is granted then it would result in failure of legal and rehabilitation process.Although this ground gives discretion to the JJB and children's court but this discetion has to be exercised with well settled principal of law-Juvenile Justice. While interpreting ends of Justice, justice which leads to fairness, not only to the CCLbut alsoto the victim and to society as a whole.

Recent trends of court regarding grant of bail to Child in Conflict with Law.

A (Juvenile - Conflict With Law) Through - Natural Guardian-Mother versus State Of Chhattisgarh Through - City- Kotwali, Dhamtari, [1] It has been held that 'As per the provisions of Section 12 of the Act, 2015, it is clear that there was no intent of the legislature to consider the grant of bail to a juvenile as his absolute right and that is why itcarved out an exception under which bail can be denied,otherwise there was no occasion to attach proviso with Section12(1) of the Act, 2015. My view gets strength by the view taken bythe Supreme Court in the case of OmPrakash Vs. State ofRajasthan and anotherreported in (2012) 5 SCC 201.In that case it is observed that'' while considering the provisions of Section12(1) of the Act, 2015 has observed as under:

"30. Thus, it is no ultimate rule that a juvenile below the age of 16 years has to be granted bail and can be denied the privilege only on the first two of the grounds mentioned in the proviso, that is to say, likelihood of the juvenile on release being likely to be brought in association with any known criminal or in consequence of being released exposure of the juvenile to moral, physical or psychological.

In the case titled Anjum Mohmood v/s U T of J&k [2] has held that the expression the ends of justice would include factors like nature of crime, gravity of charge, the manner of committing offence and impact on society etc. The Hon'bleMadhya Predesh High Court in he cases titled "C.C.L versus State of Madhya Predesh [3] has observed that the phrase "ends of justice" is a meaningful phrase bringing within its ambit manufactures including the nature of crime and merits of the matter.

The Hon'ble Allahabad High Court in the case titled "X-minor versus State of U. P and others" [4] has observed that the scheme of J.J. Act is not solely reformatory as it has a twin approach i.e. reformatory and retribut ive tio certain extent. It is furter observed that while deciding a bail application the court has to see the nature of the crime, methodology adopted and manner of commission assumes ample significance. However, with due defference to the

judicial decisions, the pharase “defeat the ends of justice” is not proxy for the gravity of the offence and cannot be used as a tool to deny bail because the offence is henious, rather court has to consider evidence based reasons to consider how the release of C.C.L would harm the justice process and child reform.

In the case titled “Master Abhishek minor versus State of Dehli (2005) [5] it has been observed that the purpose of the act is to needs of children’s care and protection and to cater to their developmental needs. This can be done by adopting a child friendly approach in adjudication and disposition of the matter in the best interest of children and for their ultimate rehabilitation.

Thus, while deciding the bail application the Juvenile Justice Board and Children Board must record the documented reason swhile denying the bail as required under Section12 of the Juvenile Justice (Care and Protection) Act as it is not just a procedural formality but the reasoned judicial decision must reflect the clear finding connected to the evidence. A bail order must the basedown social investigation report of psychologist and the status report has not only on the basis of gravity of the offence. The Juvenile Justice (Care and Protection) Act is beneficial

References

1. 1 (2026) CGHC 8060
2. (2026) JKL HC 855
3. 3 2024) MP HC JBP 49996
4. (2022) SCC online ALL 771
5. 119 (2005) DLT 556
6. Kofi A Amman 2000 The State of World’s children.
7. The Juvenile Justice (Care and Protection of Children) Act 2015.
8. A (Juvenile - Conflict with Law) Through - Natural Guardian-Mother-versus State of Chhattisgarh Through - City- Kotwali, Dhamtari (2026) CGHC 8060
9. Anjum Mohmood v/s U T of J&k (2026) JKL HC 855
10. 5.C.C.L versus State of Madhya Predesh 2024) MP HC JBP 49996
11. X-minor versus State of U.P and others (2022) SCC online ALL 771
12. Master Abhishek minor versus State of Dehli (2005) 119(2005) DLT 556.
13. Myron weiner 1991, The Child and the State in India.
14. Ministery of women and child development releases and study on child abiuse, press information bureau 2007.
15. Mohan Tiwari, Rajiva Prasad, Childrens vulnerablity to domestic violence, 2005.