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Administration of Juvenile Justice: A Case Study

ABSTRACT

The gang rape of a young woman in Delhi on 16 December 2012 has generated a nationwide debate on a number of issues, including heinous offences committed by minors acting like an adult, and as a result, the new law on juvenile delinquent has been reframed in the form of the Juvenile Justice (Care and Protection of Children) Act, 2015. A major overhaul of treatment of juvenile delinquents brought by the law is that all juveniles in the age group of 16-18 years be dealt with by the adult criminal justice system. In this paper the author examines a recent case decided by the Supreme Court of India related to a child in conflict with law, who was below 18 years, found to have been lodged in regular jail, despite the law provides otherwise, because he was alleged to have involved in a heinous offence. It argues that there is need for organizing periodic refresher course on administration of juvenile justice in judicial academies operating in the country.

KEYWORDS

Bail, Children's Court, Heinous Offences, Juvenile, Juvenile Justice Board.

I. INTRODUCTION

The Juvenile Justice (Care and Protection of Children) Act, 2015 brought a major overhaul of treatment of juvenile delinquents. A major change brought by the law is that all juveniles in the age group of 16-18 years be dealt with by the adult criminal justice system. The law provides that when a child above 16 years but below 18 years is alleged to have committed a heinous offence, the determination of whether such child is to be tried as an adult is two-tiered. First, the Juvenile Justice Board (hereinafter JJB) is mandated to conduct a preliminary assessment,¹ which is not a trial but a capacity centered inquiry, focusing on the child's mental and physical ability to commit the offence, the extent of understanding of its consequences, and the other circumstances relating to its commission. For this purpose, the JJB may seek assistance from psychologists or other experts. After such

¹ Section 15(1) of the Juvenile Justice (Care and Protection of Children) Act., 2015.

assessment, if the JJB is of the opinion that the matter is of such nature that warrants trial as an adult, it may pass an order transferring the case to the Children's Court.² Second, the Children's Court, after receiving the preliminary assessment from the JJB, independently evaluates the case³ and may either affirm the need for trial of the child as an adult in accordance with the Code of Criminal Procedure, (now replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023) or, if it finds otherwise, proceed to conduct an inquiry as a JJB and pass appropriate rehabilitative orders.⁴ This paper examines a recent case decided by the Supreme Court of India related to a child in conflict with law, who has not attained the age of 18 years on the date of incident and was alleged to have involved in a heinous offence. It suggests that periodic refresher course on administration of juvenile justice in accordance with the well settled legal provisions should be organized in judicial academies for all stakeholders.

II. ORDER OF THE JJB

In the present case,⁵ on the basis of documents available the date of birth of the juvenile was found as July 12, 2005 and therefore, the age of the CCL is about 16 years 11 months 21 days, as on the date of incident,⁶ the JJB, Agra was of the view that the person was a Child in Conflict with Law (hereinafter CCL)⁷ and as such he was declared a juvenile delinquent in violation of law or CCL. Thereafter, the Appellant, through his father, filed a bail application before the JJB and sought release which was refused⁸ by the JJB with following observations – “The applicant juvenile has been declared a juvenile delinquent on 23.06.2023 and before releasing any juvenile on bail, it has to be seen whether he is likely to associate with any known criminal or face any moral, physical or psychological danger by releasing him on bail or whether releasing that person would defeat the purpose of justice.⁹ From the observation of the report submitted by the District Probation Officer (hereinafter DPO) and the documents, it is clear that the juvenile needs moral, social and practical knowledge. Thus, it is clear that if the juvenile is released on bail, he will come into the company of a known criminal and this will put him in moral, physical and psychological danger, due to which the purpose of

² Section 18(3) of the JJAct, 2015.

³ Section 19.

⁴ Section 18.

⁵ Juvenile Delinquent v. State of U.P. and Ors., 2026 INSC 387. The judgment was delivered on April 06, 2026.

⁶ The date of incident was 02.07.2022

⁷ Vide order dated 23.06.2023

⁸ Vide order dated 04.07.2023.

⁹ Section 12 of the Juvenile Justice (Care and Protection of Children) Act 2015.

justice will fail. Therefore, keeping in view all the facts and circumstances of the case, the application for bail deserves to be cancelled.” It is submitted that the JJB failed to carefully consider the report submitted by the DPO which neither reveals any adverse remark qua the Appellant nor involvement of the Appellant in any drug trafficking, gambling, or similar activities, rather he was found to be religious in nature, inclined towards reading, and maintaining friendships with people of similar age. The JJB fails to consider the recommendation of the DPO who recommended that providing the juvenile with a positive family environment and proper counselling on a fortnightly basis can improve the juvenile's understanding and behaviour. In such circumstances, the refusal of the bail to the CCL by the JJB was bad in law.

III. DECISIONS OF THE APPELLATE COURT AND THE HIGH COURT

Aggrieved by the refusal of bail, the Appellant preferred an appeal before the Special Additional Sessions Judge, Agra (hereinafter, ‘the Appellate Court’), which was dismissed.¹⁰ The Appellate Court took into account the nature of the offence and the manner of commission of the offence and observed that it was "extremely disgusting, heinous and gruesome." It further held that enlarging the Appellant on bail would defeat the objectives of the Act, as it would expose him to the company of criminal persons. The bail of the Appellant was primarily refused by the Trial Court and the Appellate Court on the ground that he requires moral, social and practical counselling as indicated by the DPO. When the matter reached the High Court, the learned Judge was influenced by the fact that the age of the Appellant is above 16 years and below 18 years and the offence is of heinous nature. Moreover, his trial is going on as an adult wherein he can be sentenced for more than 3 years except life or death, the Judge observed that if the Appellant is released on bail, he can again get involved in criminal activities. It is humbly submitted that the High Court failed to take note of the fact that the Appellant was lodged in a regular jail and there were no trial of the Appellant as an adult in any Children Court.

IV. ISSUES BEFORE THE SUPREME COURT AND FAIR PROCEEDINGS

A bare perusal of the judgment reveals that the Supreme Court had given fair time and opportunities to the respondents to comply with directions given from time to time. Having regard to the fact that the Appellant was declared as a juvenile, the question

¹⁰ Vide order dated 01.02.2024.

that arises for consideration before the Supreme Court was the extent to which the observations made by the Trial Court, Appellate Court and the High Court, while rejecting his bail application, can be sustained or not? When the matter first came up for consideration,¹¹ despite being declared a juvenile, the Supreme Court found that the Appellant had remained lodged in a regular jail for more than two and a half years.¹² As such, while issuing notice, the Court also called upon the State of Uttar Pradesh to furnish an explanation in this regard. After perusal of the affidavit filed by the State, the explanation offered was found to be far from satisfactory.¹³ The Court thought it appropriate to grant one more opportunity to the State to clarify why after declaring the Appellant as juvenile, he was still kept in a regular jail. On the same date, the Court directed to release the Appellant on bail.

On the next date,¹⁴ the Supreme Court observed: “Since the issue involved in the present case is that the person who has been declared as juvenile by the JJB, how can he be allowed to be kept into the regular custody. From the explanation filed by the State as well as the Member, JJB, it is not clearly clarified indicating that who is at fault. Therefore, fresh explanation is required from the Member, JJB, In the said explanation, it be specified how and in what manner the order declaring him juvenile was communicated to the authorities.” The Court ordered that “let a fresh explanation be submitted by the Members, JJB and the State authorities clarifying the aforesaid position. The Registrar General of the High Court and the State authorities are at liberty to specify that what procedure are being observed in the State of Uttar Pradesh to transfer a delinquent after declaring him as juvenile in the matter of shifting him from the jail to observation home or vice-versa.”

The Court directed the Registrar General of the High Court to join as party to the proceedings and the report of the Registrar General was directed to be supplied to learned counsels for both the parties for better assistance.¹⁵ On the next date,¹⁶ the report of the Registrar General was perused, which, inter-alia, contended that the requisite rule-making power in the matter of transfer of

¹¹ On 15.10.2025.

¹² The juvenile has been wrongfully put in regular jail meant for adult prisoners, even after declaring him juvenile, because of lack of communication, insensitivity and inhumane approach on the part of the officials.

¹³ Order dated 28.11.2025.

¹⁴ 15.12.2025. The explanation and the report of Presiding Officer of the JJB through Registrar General of the High Court was received.

¹⁵ Vide order dated 30.01.2026.

¹⁶ 27.02.2026.

an offender from regular jail to observation home after being declared juvenile, is vested in the State Government.¹⁷ Upon perusal, the Court was of the view that the report of the Registrar General was based on improper understanding of law. The Court observed:¹⁸ “It is a matter in which despite declaration of petitioner as juvenile by the JJB, he was kept into regular jail and pretext of non-communication has been put forth.” However, the Court directed to release the petitioner on bail.¹⁹ The Court astonishingly observed that it is a matter of concern that for more than 2 years and 5 months, as a juvenile was kept in regular jail until directed to be released by the Court. It was also observed that the response received from the Registrar General referring to Section 10(2) of the Act, was based on complete non application of mind. Therefore, in such compelling situation, the Court ordered to join the High Court through Registrar General as a party in this case. It was further observed that except tendering an apology, nothing has been brought on record to understand as to what steps have been taken by the High Court to strengthen the system in the matter of communication of orders passed by the JJB consisting of one judicial officer. The Court went on to say that in an inquiry regarding juvenility of a person who is in conflict with law is pending in JJB, the officers of the JJB/ police attending the proceedings are so insensitive to not indicate why he could not enquire about the order of a competent Court regarding a juvenile and are filing response of not receiving the order from the Court. The Supreme Court directed that the present order be placed before Hon’ble the Chief Justice of the High Court, Chief Secretary of the State, Law Secretary of the State and the Director General (Prisons) of the State of Uttar Pradesh.

When the matter was listed before the Court,²⁰ the Registrar General of the High Court produced a Standard Operating Procedure (hereinafter, ‘SOP’) addressing the issue of transfer of declared juveniles from regular jails to observation homes, which was taken on record. Thereafter, the Court sought response from the State as to how far they are in a position to accept the terms of SOP and if they wish to suggest some additional measures, needful may be done. In this light, and being guided by the mandate of Article 21 of the Constitution of India, the Court also sought response from the State vis-a-vis compensation in lieu of the Constitutional Tort committed against the Appellant. On this, it was submitted that State is ready to pay a compensation of Rs.5 lakhs to the Appellant and the compensation amount has been

¹⁷ Section 10(2) of the JJ Act.

¹⁸ Supra note 16.

¹⁹ Vide order dated 28.11.2025.

²⁰ On 23.03.2026,

deposited in accordance with the previous order in the bank account. The State further submitted that they are in agreement with the SOP prepared by the High Court and they shall vigorously follow such SOP in future while dealing with the situation like the one in the present case in the matter of juvenile.

V. FINAL ORDER OF THE SUPREME COURT

Reverting to the impugned order passed by the High Court, as well as the order of the Trial Court and the Appellate Court, the Supreme Court found that the bail of the Appellant was primarily refused by the Trial Court and the Appellate Court on the ground that he requires moral, social and practical counselling as indicated by District Probation Officer.²¹ Moreover, the nature of the offence also weighed in the mind of the Courts. The Court was constrained to observe that both the Courts failed to take note of the material fact that, despite having been declared a juvenile, the Appellant was lodged in a regular jail. This is particularly disquieting as the report of the DPO does not indicate that his trial ought to be conducted as that of an adult. Such an approach indicates a lack of sensitivity and want of awareness on the part of the stakeholders.

Insofar as the impugned order passed by the High Court is concerned, it appears that the learned Judge was swayed by the fact that the age of the Appellant is above 16 years and below 18 years and the offence is of heinous nature, and if his trial is going on as an adult wherein, he can be sentenced for more than 3 years except life or death. In this context, High Court observed that if the Appellant is released on bail, he can again get involved in criminal activities. It is to be noted that much like the Trial Court and Appellate Court, the High Court also failed to take note of the fact that the Appellant was lodged in a regular jail. Moreover, we are also of the view that the observation that the Appellant's trial is going on as an adult since his age is above 16 years and below 18 years is incorrect on the face of it. For the purpose of examining the justifiability of the orders passed by the Trial Court, the Appellate Court, and the High Court in relation to the grant of bail to the juvenile, at the outset, it is necessary to consider the report of the DPO. A perusal of the said report reveals that none of the columns contain any adverse remark qua the Appellant. The report indicates that the Appellant was not involved in any drug trafficking, gambling, or similar activities. He was found to be religious in nature, inclined towards reading, and maintaining friendships with people of similar age. His behavior was reported to be normal, and there was no indication of parental or familial neglect. The DPO recommended that providing the juvenile with a

²¹ Vide his report dated 27.06.2023.

positive family environment proper counselling on a fortnightly basis can improve the juvenile's understanding and behaviour. In such circumstances, the conclusion drawn in the report does not justify the continued detention of the Child in Conflict with Law. In fact, the DPO observed that if the juvenile was kept in a positive family environment with proper and periodic counselling, it would improve his understanding and behavior. Despite this, the JJB refused bail on the apprehension that the Appellant may come into the company of known criminals and can be exposed to moral, physical, or psychological danger. Therefore, the Court was unable to accept such reasoning, particularly in light of the DPO's report, which does not warrant such a conclusion.

The Court further observed that the Appellate Court, merely relied upon the nature of the offence, describing it as 'extremely disgusting, heinous and gruesome.' Nonetheless, such an observation was germane only if such conclusion was arrived at by the JJB at the stage of preliminary assessment under Section 15 of the JJ Act, prior to passing an order under Section 18(3). In our considered view, the Appellate Court has thus failed to take into account the intent and object of the provisions of the JJ Act. It is undisputed that the Appellant was between 16 and 18 years of age and had been declared a juvenile, albeit, in connection with a heinous offence. Moreover, there was no observation by the JJB or in the report of the DPO to the effect that Appellant's trial be done as an adult. Once so declared, he was required to be treated strictly as a CCL. Thereafter, it was incumbent upon the JJB and the Courts to proceed in accordance with the statutory framework either by releasing him on bail or probation of good conduct, handing him over to the care of his parents or guardians, placing him under the supervision of a fit facility, or, where necessary, sending him to a special home or place of safety with appropriate reformatory measures such as counselling, behavioral therapy, and psychological support. Only in a situation where the CCL's conduct is such that it would not be in his interest or that of other children, could the JJB consider sending him to other place of safety. The discretion vested under Section 18(2) is to be exercised in furtherance of reformatory and rehabilitative objectives. Further, where, upon preliminary assessment under Section 15, it is found that the child ought to be tried as an adult, the matter is to be transferred to the Children's Court in accordance with Section 18(3). In absence thereof, the ordinary statutory framework applicable to juveniles must prevail. In a case where the JJB has declined to declare the child as a juvenile and the matter thereafter comes before the Children's Court under Section 18 read with Section 19 of the JJ Act, the said Court is first required to determine on its own whether the child should be tried as an adult. Such determination must be made while keeping in

mind the mandate of Section 21 i.e., what orders may not be passed if the juvenile is declared CCL. It should be done while acknowledging the child's special needs, the principles of fair trial, and the requirement of maintaining a child-friendly atmosphere. In case the Court finds that trial of the juvenile as an adult is not required, it is open to the Children's Court to conduct an inquiry as a Board and pass appropriate orders in terms of Section 18. The scheme of the JJ Act, thus, envisages a comprehensive and robust procedure to ensure that the rights of the child are not thwarted at any stage. On perusal of the record of the present case, we do not find any order of the JJB or any designated Children's Court to the effect that there was a need for trial of the Appellant as an adult. In absence thereof, we are of the firm view that the observations as made by the High Court is wholly unwarranted and cannot be countenanced with the spirit and object of the JJ Act. Once the Appellant stood declared a juvenile, the course adopted by the High Court is based on surmises and conjectures, which cannot be sustained in law. In this view of the matter, we set aside the order of the High Court also.

VII. CONCLUSION

The case shows that the Supreme Court was perturbed by callous acts of the State authorities, JJB, Appellate Court as well as the High Court. It is pertinent to mention herein that the Supreme Court was compelled to observe that cases like the present case reflects a serious and systemic lack of coordination and sensitivity amongst all the stakeholders entrusted with the administration of juvenile justice framework. There are many reports of suicides committed by juveniles when their applications for bail are refused by JJBs and courts. In a shocking incident occurred in the recent past at an observation home in Imphal where a juvenile, who had eloped his lover, a minor girl, had committed suicide after his bail was refused by the lone member of the JJB, Imphal West, Manipur. The statutory mandate of the JJ Act is not merely procedural but also advances the guarantee under Article 21 of the Constitution of India, as expressed in its clause of object and reasons. Therefore, prompt and humane treatment of CCL is required to be undertaken in light of the objectives of the act. As such, any lapse in ensuring immediate transfer of a declared juvenile to an observation home from regular jail not only defeats the object of the legislation but also results in a serious infraction of the Juvenile's right to life. Therefore, we impress upon all the concerned authorities and the stakeholders to institutionalize robust mechanisms so that such instances do not recur in future. One can understand the anguish of the highest court when it lamented that the Court sincerely hopes that the concerned learned Judge of the High Court as well as the Judicial Officers presiding the JJB will exercise extreme care in future while

dealing with the matters of juveniles. For purpose of ensuring this, the Court directed that the order be placed before Hon'ble the Chief Justice of the High Court, and upon approval, be further communicated to the concerned Judge and the Judicial Officers through the Registrar General. In view of the seriousness of the issue involved, the Supreme Court deem it appropriate to direct that a copy of the judgment, along with the SOP prepared by the High Court of Judicature at Allahabad, be forwarded to the Chief Justices of all the High Courts for their kind perusal and appropriate action. It was also noted that the Chief Justices of all the High Courts may examine the same and, if no such mechanism has already been implemented in their respective jurisdictions, take suitable measures to ensure effective implementation of the statutory mandate under the JJ Act, particularly with regard to prompt communication of orders declaring a person as juvenile and immediate transfer of juveniles lodged in regular jail to observation homes upon such declaration. It was also directed that a copy of this order along with the SOP be also transmitted to the Chief Secretaries of all the States and Union Territories of India for appropriate action. The Court finally ordered to circulate a copy of this order to the Directors of all Judicial Academies across the country, for purpose of sensitizing and apprising the judicial officers in this regard. It is suggested that periodic refresher course on administration of juvenile justice in accordance with the well settled legal provisions should be organized in judicial academies for all stakeholders.