IN THE COURT OF ADDITIONAL DISTRICT AND SESSIONS JUDGE, ERNAKULAM

(For the trial of cases relating to Atrocities & Sexual Violence against Women and Children)

CHILDREN'S COURT,ERNAKULAM

PRESENT:

Smt.Kavitha Gangadharan,Addl. District & Sessions Judge

Thursday, the 05th day of November,2026/14th Karthika,1948.

Crl.Appeal No.02/2026 and Crl.Appeal No.03/2026

Crl.Appeal No.2:-

Appellants

1. Bhadrakeerthy.R.J, aged 24 years, D/o.Late S.R.Jayabalakrishnan, Puthenparambil House,Sreekrishna Swami Temple, Cheranelloore, Chittoor P.O, Ernakulam District, PIN-682 027.
2. Bharath Sankar R.J, aged 26 years, S/o.Late S.R.Jayabalakrishnan, Puthenparambil House,Sreekrishna Swami Temple, Cheranelloore, Chittoor P.O, Ernakulam District, PIN-682 027.

By Adv.Sri.M.G.Sreejith.

Respondents

1. State of Kerala represented by Sub Inspector of Police, Cheranelloore Police Station, Public Prosecutor, District Court,Ernakulam,PIN- 682 018.
2. CCL xxxxxx.

R1 By Special Public Prosecutor Smt. P.A. Bindhu.
R2 By Advs.Sri.John.S Ralph,Vishnu Chandran,Ralph R.John,Giridharkrishnakumar,Geethu.T.A,Mary Greeshma, Liz Johny, Krishnapriya Sreekumar, Abhijith P.S and Ashutosh P. Kamath.

Crl.Appeal No.3:-

Appellant

1. Kerala State represented by Public Prosecutor on behalf of the Investigating Officer,Cheranelloor Police Station.

By Special Public Prosecutor Smt. P.A. Bindhu.

Respondent

CCL xxxxxx.

By Advs.Sri.John.S Ralph,Vishnu Chandran,Ralph R.John, Giridharkrishnakumar, Geethu T.A, Mary Greeshma, Liz Johny, Krishnapriya Sreekumar, Abhijith P.S and Ashutosh P. Kamath.

These Crl.Appeals are coming on for hearing before me upon perusing the appeal and the records of the case, and upon duly considering the same and I do adjudge and pass the following:-

JUDGMENT

"The finest hour of the Rule of Law is when law disciplines life and matches promise with performance."

—Hon'ble Justice V.R. Krishna Iyer

1. These two criminal appeals, instituted under Section 101 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the *JJ Act*), are preferred against the order dated 25.10.2026 passed by the Juvenile Justice Board, Ernakulam, (hereinafter referred to as the JJB) in connection with Crime No. 499/2026 of Cheranalloor Police Station, whereby the Child in Conflict with Law (hereinafter referred to as the *CCL*) was granted bail. Since both appeals arise out of the same crime and challenge the order granting bail to the same CCL, they are taken up together for consideration and disposal by this common judgment.

2. Preliminary procedural history and jurisdiction of this court:- At the outset, it is necessary to advert to the circumstances in which the present appeals came to be instituted before this Court and to clarify the jurisdiction under which this Court is exercising its appellate powers.

3. Initially, an appeal under Section 101 of the JJ Act, challenging the order passed by the Juvenile Justice Board, Ernakulam, granting bail to the CCL in the present crime, was preferred before the Honourable Principal District and Sessions Court, Ernakulam, and was registered as B.A. 2432/2026. During the pendency of the said proceedings, the legal heirs of the deceased, who are the appellants in the present Criminal Appeal No. 02/2026, filed an application registered as Crl.M.P. No. 1/2026, seeking permission to get them impleaded in the appellate proceedings.

4. This Court, namely, the Additional District and Sessions Court for the trial of offences relating to women and children, has been designated as the Children's Court for Ernakulam district by virtue of G.O (P) No.23/2015/SJD dated 31/03/2015, issued by the Government of Kerala in exercise of the powers under Section 25 of the Commissions for Protection of Child Rights Act, 2005. In view of the designation and jurisdiction so conferred, the Honourable Principal District and Sessions Court forwarded the Criminal appeal to this Court for appropriate consideration.

5. Upon receipt of the records and pursuant to the orders passed on the administrative side, the proceedings were renumbered by the office of this Court. Accordingly, the appeal originally registered as B.A No. 2432/2026 was taken on file as B.A No. 45/2026 and was subsequently renumbered as Criminal Appeal No. 01/2026.

6. Pursuant to the institution of the said proceedings, notice was ordered to the guardian of the CCL and the relevant records were called for from the Juvenile Justice Board, Ernakulam. On 30.10.2026, the counsel for the CCL appeared before this Court and filed memo of appearance. When the matter was taken up for consideration on the question of admission, this Court noticed that the name and address of the CCL had been disclosed in

the memorandum of appeal as well as in the criminal miscellaneous petition 1/2026. Since disclosure of the identity of a child in conflict with law is prohibited under Section 74 of the JJ Act, appropriate directions were issued to the concerned parties to rectify the defects in the pleadings and to ensure that the identity of the CCL was duly masked in the relevant reports uploaded in the DCMS, so as to prevent disclosure of the identity of the CCL.

7. On 31.10.2026, the prosecution did not press Criminal Appeal No. 01/2026. Consequently, Crl.M.P. No. 1/2026 filed by the legal heirs of the deceased was also not pressed. Thereafter, on the same date the legal heirs of the deceased instituted a fresh appeal under Section 101 of the JJ Act, which was taken on file as Criminal Appeal No. 02/2026. The prosecution also instituted a fresh appeal under the said provision, which was taken on file as Criminal Appeal No. 03/2026. Since the CCL had already entered appearance through counsel in the earlier proceedings and his counsel was present before this Court, copies of both the fresh appeals were served on the counsel appearing for the CCL, who received the same on his behalf.

8. It is these two appeals, namely, Criminal Appeal Nos. 02/2026 and 03/2026, which are now being considered and disposed of by this common judgment. The above narration is made to clarify the procedural history of the proceedings, the appearance and service upon the CCL, and the circumstances in which the present appeals came to be instituted before this Court.

9. The prosecution case, as discernible from the First Information Report in Crime No. 499 of Cheranelloor Police Station and the connected records, relied on by both the appellants in the two criminal appeals,

originates from a motor vehicle accident alleged to have occurred on 25.10.2026 at approximately 2.20 a.m. It is alleged in the FIR that an unknown person, while driving a Mercedes-Benz car bearing registration No. KL-46-F-0333 along the Vallarpadam–Kalamassery Container Road in a rash and negligent manner so as to endanger human life, hit a scooter bearing registration No. KL-07-CW-6853, which was proceeding in the same direction and was ridden by Sri. Jayabalakrishnan, aged 55 years, son of Rangaswami Chettiyar. The accident is stated to have occurred near the Ford Showroom at Cheranelloor Maraparambu. As a consequence of the collision, the scooter rider sustained grievous injuries and succumbed to the same on that very day.

10. On the basis of the First Information Statement furnished by Sri. Ananthakrishnan, son of Manikandan, who identified the deceased as his father's brother, the crime no.499/2026 was registered at Cheranalloor Police Station. The First Information Statement was recorded at 4.50 a.m. on 25.10.2026, and the FIR was registered at 7.34 a.m. on the same day, initially alleging offences punishable under Sections 281 and 106(1) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as the *BNS*), against an unknown driver.

11. The records further reveal that an alteration report was submitted at 9.40 a.m. on 25.10.2026, disclosing the name, age and address of the person alleged to have been driving the aforesaid car. The person so identified was aged 17 years at the relevant time and, consequently, falls within the statutory definition of a child in conflict with law under the JJ Act.

12. The records also disclose that, by a subsequent alteration report submitted on the same day, Sections 281 and 106(1) of the BNS were

deleted and Section 105 of the BNS and Section 183 of the Motor Vehicles Act, 1988, were incorporated. A further alteration report was thereafter submitted, incorporating Section 181(3) and 181(4) of the Motor Vehicles Act, 1988.

13. Another significant aspect emerging from the records is that a medical examination certificate pertaining to the CCL had been obtained from the Medical Officer at 5.00 a.m. on 25.10.2026, i.e., prior to the registration of the crime at 7.34 a.m. The said certificate is seen appended to the FIR records. A separate certificate relating to the examination for consumption of alcohol is also available on record, wherein the Medical Officer has recorded that there were no clinical findings suggestive of consumption of alcohol by the person examined.

14. The aforesaid sequence of events, including the time of the accident, recording of the First Information Statement, medical examination of the alleged driver, registration of the crime and the successive alteration reports, is noticed as it constitutes the relevant procedural background against which the subsequent proceedings before the Juvenile Justice Board and the rival claims in these appeals have to be appreciated.

A. Criminal Appeal No. 02/2026 – Appeal preferred by the legal heirs of the deceased

15. Criminal Appeal No. 02/2026 has been preferred by the daughter and son of the deceased Jayabalakrishnan, arraying the State of Kerala as the first respondent and the CCL as the second respondent. The appeal is directed against the order of the Juvenile Justice Board granting bail to the CCL in the aforesaid crime. The appellants seek interference with the impugned order primarily on the ground that the JJB exercised

jurisdiction under an inapplicable provision of law while considering and allowing the bail application.

16. The principal contention advanced by the appellants is that the bail application submitted on behalf of the CCL was entertained and considered under Section 480 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the *BNSS*), whereas the grant of bail to a child alleged to be in conflict with law is governed by the special statutory regime contained in Section 12 of the JJ Act. According to the appellants, the provisions of the JJ Act constitute the governing law in the matter of release of a child on bail, and the Board could not have resorted to the general provision contained in Section 480 of the BNSS in substitution of the special provision.

17. It is further contended that, although the offence under Section 105 of the BNS had allegedly been attracted at the initial stage itself, the same was not incorporated in the crime at the relevant time, thereby enabling the CCL to obtain station bail. According to the appellants, it was only subsequently, following public agitation and further developments in the matter, that the CCL was produced before the Juvenile Justice Board and a bail application was thereafter moved under Section 480 of the BNSS. The appellants contend that the very assumption of jurisdiction by the Board under the said provision vitiates the impugned order and renders the same liable to be set aside.

18. The appellants have also filed additional grounds of appeal invoking Section 101 of the JJ Act read with the relevant provision of the BNSS. In the additional grounds, the challenge is further founded upon the exceptions enumerated in Section 12 of the JJ Act. It is contended that the release of the CCL on bail is likely to expose him to moral, physical and

psychological danger and that such release would defeat the ends of justice. The appellants maintain that the gravity and circumstances of the alleged occurrence, the consequential loss of a human life and the impact of the release of the CCL upon the confidence reposed by the public in the administration of justice are relevant considerations which, according to them, were not properly appreciated by the JJB.

19. It is further contended that the release of the CCL would frustrate the process of lawful rehabilitation contemplated under the JJ Act and that his continued placement in an appropriate institution is necessary in the interests of his care, protection, development and rehabilitation, as well as to secure the ends of justice. On the above grounds, the appellants seek setting aside of the order granting bail to the CCL.

B. Criminal Appeal No. 03/2026 – Appeal preferred by the State

20. Criminal Appeal No. 03/2026 has been preferred by the State of Kerala, represented by the Public Prosecutor, challenging the very same order passed by the Juvenile Justice Board granting bail to the CCL. The State seeks cancellation of the bail granted to the CCL, contending that the Board failed to properly appreciate the circumstances surrounding the occurrence, the subsequent developments in the investigation and the statutory considerations governing the release of a child under Section 12 of the JJ Act.

21. The case advanced by the appellants is that, at the initial stage, having regard to the nature of the offence then alleged, the CCL was permitted to remain with his guardian upon issuance of the requisite notice, as the offence was not then treated as a heinous offence. However, in the course of further investigation, it was allegedly revealed that the CCL had

recorded a video on his mobile phone depicting the speedometer of the vehicle registering a speed of 108 kilometres per hour. According to the prosecution, the said video indicates that the CCL had driven the vehicle at an excessive speed and had deliberately recorded the speedometer while driving, thereby evidencing a conscious disregard for the safety of other road users. It is further alleged that the CCL was driving the vehicle with one hand while using the other hand to record the speedometer, and that the vehicle was being driven at such speed during rainy conditions.

22. On the basis of the aforesaid subsequent revelations, the investigating agency altered the provisions of law and incorporated Section 105 of the BNS and the relevant provisions of the Motor Vehicles Act, 1988. The State further submits that a notice under Section 13 of the JJ Act was issued to the father of the CCL, directing him to produce the child for the purpose of apprehension. It is stated that, on 25.10.2026 at 21.45 hours, the CCL was apprehended in the presence of his parents; the grounds of apprehension were communicated to his father along with the requisite notice; and the Protocol Officer was also informed of the same over telephone.

23. The appellant further points out that a report was subsequently submitted by the Investigating Officer seeking to array the registered owner of the vehicle as the second accused, alleging commission of offences under the relevant provisions of the Motor Vehicles Act. It is the specific case of the State that, following his apprehension, the CCL was produced before the Juvenile Justice Board and was thereafter enlarged on bail by the impugned order.

24. The grounds urged by the State in support of its challenge may be summarised as follows:

(i) The CCL belongs to an influential family and, in the circumstances of the case, his release on bail would send an undesirable message to society. The Board, according to the State, failed to consider this relevant circumstance while passing the impugned order.

(ii) The grant of bail at such an early stage of the investigation was premature and would convey an inappropriate impression regarding the administration of juvenile justice, particularly in a case involving the death of a person.

(iii) The CCL was allegedly driving the vehicle at an excessive speed during rainy conditions while simultaneously recording a video of the speedometer by holding the mobile phone in one hand and steering the vehicle with the other. Such conduct, according to the prosecution, constitutes a grave act of rashness and negligence, demonstrating a conscious disregard for human life and road safety. The Board is alleged to have failed to give due consideration to this circumstance.

(iv) The CCL is on the verge of attaining majority and was in possession of a mobile phone and social media accounts, including an Instagram account, which were allegedly used by him at and prior to the time of the occurrence. The appellant contends that these circumstances were not properly considered by the Board while assessing the implications of his release.

(v) The incidence of offences allegedly committed by children is stated to be on the increase. According to the State, the release

of the CCL, who is approaching the age of majority, in the circumstances of the present case would convey an adverse message to society and undermine public confidence in the administration of justice.

(vi) The State alleges that the release of the CCL on bail has adversely affected the investigation of the crime.

(vii) It is further contended that the release of the CCL is likely to expose him to moral, physical and psychological danger and may also prejudice the proper dispensation of justice.

(viii) The JJB is alleged to have failed to appreciate the seriousness of the alleged conduct of the CCL, particularly the allegation that he drove the vehicle at an excessive speed, resulting in the death of a person belonging to an economically weaker section of society.

25. On the above grounds, the appellant seeks setting aside of the impugned order granting bail and prays that the CCL be placed in an Observation Home for the purpose of further investigation.

26. Thus, while Criminal Appeal No. 02/2026 is preferred by the legal heirs of the deceased principally challenging the jurisdictional basis on which the bail application was entertained and the alleged non-consideration of the statutory exceptions under Section 12 of the JJ Act, Criminal Appeal No. 03/2026 is preferred by the State questioning the grant of bail on the basis of the circumstances emerging from the investigation, the alleged conduct of the CCL, the stage of investigation and the considerations relating to the safety, welfare and rehabilitation of the child and the proper administration of justice.

27. Both appellants, though advancing distinct grounds, seek interference with the order of the Juvenile Justice Board and cancellation of the bail granted to the CCL. The legality, propriety and sustainability of the impugned order are, therefore, required to be examined in the light of the statutory scheme of the JJ Act, particularly Section 12 thereof, the materials placed before the Board, the circumstances surrounding the occurrence and the principles governing the exercise of appellate jurisdiction under Section 101 of the JJ Act.

28. The learned counsel appearing for the CCL entered appearance by filing a memo of appearance. However, no written objections were filed on his behalf in either of the appeals. Pursuant to the directions of this Court, the case diary and the relevant records pertaining to the proceedings before the Juvenile Justice Board, including the FIR and the apprehension report, were called for and perused. The Investigating Officer also produced the case diary before this Court in compliance with its directions. The learned counsel appearing for the appellants in both the appeals and the learned counsel appearing for the CCL were heard. The materials available on record and the rival submissions were carefully considered.

29. Accordingly, the following points arise for consideration:

POINTS FOR CONSIDERATION

1. Whether the criminal appeals preferred under Section 101(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, are maintainable?

2. Whether the registration of Crime No. 499/2026 against the Child in Conflict with Law (CCL) and his subsequent

apprehension are in violation of Rule 8(1) of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016?

3. Whether the investigating agency complied with the statutory procedure and safeguards contemplated under the JJ Act and the Rules framed thereunder in apprehending the CCL and producing him before the Juvenile Justice Board?

4. Whether the Juvenile Justice Board was justified in granting bail to the CCL, and whether its reference to Section 480 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in the impugned order has any bearing on the legality of the order?

5. Whether any of the exceptions contemplated under the proviso to Section 12(1) of the JJ Act is attracted so as to warrant denial or cancellation of the bail granted to the CCL?

6. Whether the appellants have established sufficient grounds for interference with the impugned order granting bail to the CCL?

7. What order as to costs and reliefs?

POINT NO. 1:-Whether the criminal appeals preferred under Section 101 of the JJ Act are maintainable?

30. Section 101(1) of the JJ Act provides that, subject to the provisions of the Act, any person aggrieved by an order made by the Committee or the Board under the Act may, within thirty days from the date of such order, prefer an appeal to the Children's Court. The provision confers a statutory right of appeal upon a person who is aggrieved by an order of the Board. The expression employed by the legislature is of wide

amplitude and is not confined to the child, his parent or guardian, or the prosecution alone.

31. The order impugned in these proceedings is an order granting bail to a CCL alleged to have committed an offence resulting in the death of a person in a road traffic accident. The legal heirs of the deceased claim to be aggrieved by the said order on the ground that it affects their legitimate interest in the proper administration of the proceedings arising out of the death of their family member. Their grievance is not wholly remote or speculative. They are the immediate family members of the deceased and have challenged the order on grounds relating to the statutory procedure and the exceptions governing release under Section 12 of the JJ Act.

32. The State, represented by the Public Prosecutor, has also challenged the same order, asserting that the grant of bail is contrary to the interests of justice and the proper conduct of the proceedings. The State is the prosecuting authority in the proceedings arising out of the occurrence and is directly concerned with the legality of the order granting bail in a Crime registered against the CCL. There is no express exclusion in Section 101(1) of the JJ Act barring the State from invoking the appellate remedy where it is aggrieved by an order of the Board.

33. The right of appeal under Section 101 is a statutory remedy. The question is not whether the appellants are certain to succeed on the merits, but whether they are persons aggrieved by the order under challenge and whether the appeal has been instituted in accordance with the statutory requirements. The merits of the grounds urged by them are matters to be considered separately.

34. Having regard to the nature of the order challenged and the direct interest asserted by the legal heirs of the deceased, this Court is satisfied that they fall within the expression "any person aggrieved" employed in Section 101(1) of the JJ Act. The State, being the prosecuting authority in the case and having challenged the order granting bail, is also competent to invoke the appellate jurisdiction under the said provision.

35. The appeals having been presented within the period prescribed under Section 101(1) of the JJ Act, and there being no other legal impediment to their consideration, this Court finds that both appeals are maintainable. The point is answered accordingly.

POINT NO. 2:- Whether the registration of the crime against the CCL and his subsequent apprehension are in violation of Rule 8(1) of the JJ Model Rules, 2016?

36. The question raised under this point goes to the root of the procedure adopted by the investigating agency. It is not merely a question concerning the manner in which the investigation was conducted after registration of the crime. It concerns the very procedure which the law requires the police to follow when information is received regarding an offence allegedly committed by a child in conflict with law.

37. The JJ Act is a special and beneficial legislation enacted with the object of ensuring that children alleged to have committed offences are dealt with in a manner consistent with their developmental needs, dignity, rehabilitation and social reintegration. The statutory scheme is founded upon the recognition that a child cannot be subjected to the ordinary criminal process in the same manner as an adult. The Act accordingly

prescribes a distinct procedure for dealing with children alleged to be in conflict with law.

38. Section 2(13) of the JJ Act defines a child in conflict with law as a child who is alleged or found to have committed an offence and who has not completed eighteen years of age on the date of commission of such offence. The age of the CCL at the time of the alleged occurrence is not in dispute. He is aged 17 years as his date of birth discernible from the case records is 14.02.2009. Therefore, the special statutory safeguards under the JJ Act were applicable to him from the very inception of the proceedings.

39. The classification of offences to three categories under the JJ Act is also of considerable significance. They are as follows:-

I) ***Heinous offences: -*** Section 2(33) of JJ Act defines a heinous offence as one for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more.

II) ***Serious offences:-*** Section 2(54) of JJ Act defines that Serious offences includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is **imprisonment for more than 3 years and not exceeding seven years or where no minimum punishment is prescribed.**

III) ***Petty offences:-*** Section 2(45) defines petty offences as offences for which the maximum punishment under the Indian Penal Code or any up to 3 years.

The classification is based upon the punishment prescribed by law and not merely upon the gravity of the factual allegations or the consequences of the occurrence.

40. The distinction between the maximum punishment prescribed for an offence and the minimum punishment prescribed for it is crucial. In *Shilpa Mittal v. State (NCT of Delhi)*, (2020) 2 SCC 787, the Hon'ble Supreme Court considered the meaning of the expression "heinous offence" under Section 2(33) of the JJ Act. The Supreme Court held that an offence which does not prescribe a minimum punishment of seven years cannot be treated as a heinous offence merely because the maximum punishment prescribed exceeds seven years. The expression "minimum punishment" employed by the legislature cannot be ignored or substituted by the maximum punishment while determining the category of an offence.

41. The decision in *Shilpa Mittal* is directly relevant to the classification of the offence alleged under Section 105 of the BNS. Section 105 prescribes two distinct limbs of punishment. Under the first limb, the punishment may extend to imprisonment for life or imprisonment for a term which shall not be less than five years but may extend to ten years, together with fine. Under the second limb, the punishment may extend to ten years and fine, where the act is alleged to have been done with knowledge that it is likely to cause death, but without the requisite intention.

42. Even under the first limb of Section 105, the minimum term of imprisonment prescribed is five years and not seven years. Under the second limb, no minimum term of imprisonment of seven years is prescribed. Therefore, applying the principle laid down by the Hon'ble Supreme Court in *Shilpa Mittal*, the offence under Section 105 of the BNS cannot be categorised as a heinous offence within the meaning of Section 2(33) of the JJ Act. The fact that the punishment under the provision may extend to imprisonment for life or ten years does not alter this statutory position.

43. The other provisions of the Motor Vehicles Act referred to in the alteration reports do not convert the alleged offences into heinous offences. Section 181 of the Motor Vehicles Act prescribes imprisonment which may extend to three months or fine or both. Section 183 concerns driving at excessive speed and principally prescribes monetary penalties under sub-section (1).

44. Consequently, even taking the prosecution case at its highest and proceeding on the basis that the allegations under Section 105 of the BNS and the relevant provisions of the Motor Vehicles Act are legally attracted, the alleged offences do not fall within the category of heinous offences under Section 2(33) of the JJ Act. The classification of an offence cannot be altered by the gravity of the occurrence, the unfortunate death of the victim, the alleged speed of the vehicle or the public reaction to the incident. It must be determined by applying the statutory definition to the punishment prescribed by the relevant penal provision.

45. The next question is the effect of Rule 8(1) of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016. Rule 8 is headed "Pre-Production action of Police and other Agencies". Rule 8(1) provides that no First Information Report shall be registered except where a heinous offence is alleged to have been committed by the child, or where such offence is alleged to have been committed jointly with adults. In all other matters, the Special Juvenile Police Unit or the Child Welfare Police Officer is required to record the information regarding the offence alleged to have been committed by the child in the General Daily Diary, followed by preparation of a Social Background Report of the child in Form I and forwarding of the same to the Board before the first hearing.

46. The proviso to Rule 8(1) further provides that the power to apprehend shall only be exercised with regard to heinous offences, unless such apprehension is in the best interest of the child. In all other cases involving petty and serious offences, and where apprehension is not necessary in the interest of the child, the police or the Special Juvenile Police Unit or the Child Welfare Police Officer is required to forward the information regarding the nature of the offence, along with the Social Background Report in Form I, to the Board and intimate the parents or guardian as to when the child is to be produced before the Board.

47. The language employed in Rule 8(1) is mandatory in its form and substance. It does not leave the investigating agency with an unrestricted discretion to choose between registration of an FIR and the prescribed General Diary procedure in cases involving petty and serious offences. The Rule creates a clear distinction between the procedure applicable to heinous offences and the procedure applicable to all other offences allegedly committed by children.

48. The object of the Rule is evident. It seeks to ensure that a child is not subjected to the ordinary criminal process at the threshold merely because information has been received regarding an alleged offence. It prescribes a child-sensitive procedure, whereby the information is recorded in the General Diary, the social background of the child is assessed, and the matter is brought before the Juvenile Justice Board in the manner contemplated by the Act and the Rules. The procedure is intended to prevent unnecessary criminalisation, apprehension and exposure of children to the ordinary police process.

49. The Kerala High Court has considered the scope and effect of Rule 8 of the JJ Model Rules in *Adhil Muhammed v. State of Kerala*,

Crl.M.C. No. 34 of 2024 and connected cases, decided on 24.06.2024. The Hon'ble High Court explained that, except in the cases specified in Rule 8(1), an FIR is not to be registered against a child and that the prescribed procedure is to record the information in the General Diary, prepare the Social Background Report in Form I and forward the same to the Juvenile Justice Board. The decision also explains the restriction on the power of apprehension in cases involving petty and serious offences.

50. The principle emerging from the said decision is that the special procedure under the JJ Act and the Model Rules is not an optional procedural arrangement. It is a statutory safeguard which the police authorities are bound to observe while dealing with children alleged to be in conflict with law.

51. In the present case, the FIR was initially registered against an unknown driver. However, the case diary and the connected records disclose that the identity of the person alleged to have driven the vehicle was subsequently ascertained and that his name, age and address were incorporated in the crime through an alteration report submitted at 9.40 a.m. on 25.10.2026. The person so identified was a child within the meaning of the JJ Act.

52. It is necessary to distinguish between the registration of information regarding the occurrence against an unknown person and the subsequent act of treating an identified child as an accused in the FIR. The mere fact that the initial FIR was registered against an unknown person does not, by itself, establish a violation of Rule 8 in relation to the child. However, once the investigating agency identified the person alleged to have committed the offence as a child and proceeded to incorporate him as an

accused in the FIR, the statutory restriction under Rule 8 became directly applicable.

53. The investigating agency cannot avoid the operation of Rule 8 by initially registering the crime against an unknown person and thereafter incorporating the name of the child through an alteration report, when the effect of such alteration is to proceed against the child by way of an FIR in respect of an offence which is not heinous. The substance and legal effect of the action, and not merely the form in which it was undertaken, must determine its legality.

54. The case diary further assumes significance in this regard. The medical examination certificate of the alleged CCL was obtained at 5.00 a.m., whereas the FIR was registered only at 7.34 a.m. The subsequent alteration report identifying the CCL was submitted at 9.40 a.m. These contemporaneous records require the Court to consider whether the identity of the child was already known to the police and whether the police had already dealt with him as the person alleged to have driven the vehicle even before the formal registration of the FIR.

55. On a careful examination of the case diary and the connected records, this Court finds that the investigating agency had knowledge of the identity of the person alleged to have driven the vehicle and that the CCL had already been subjected to police-related procedures before the registration of the FIR. The subsequent incorporation of his name in the FIR, therefore, cannot be treated as a mere clerical or incidental alteration. It was, in substance, the act of proceeding against an identified child through an FIR.

56. The prosecution has not demonstrated that the alleged offence was committed jointly by the child and an adult in the manner contemplated by Rule 8(1). The mere fact that the registered owner of the vehicle was subsequently sought to be proceeded against under a separate statutory provision does not, without more, establish that the offence alleged against the child was committed jointly with an adult so as to attract the exception contained in Rule 8(1). The applicability of the exception must be established by the nature of the allegation and the materials relied upon, and cannot be presumed merely because another person is also proceeded against in connection with the same occurrence.

57. In the absence of an allegation attracting either of the exceptions contemplated under Rule 8(1), the investigating agency was required to follow the prescribed procedure of recording the information in the General Diary, preparing the Social Background Report in Form I and forwarding the same to the Juvenile Justice Board. The records placed before this Court do not disclose compliance with that procedure. No contemporaneous General Diary entry in the prescribed manner, accompanied by the requisite Social Background Report in Form I, has been produced to establish that the statutory procedure was followed in relation to the CCL.

58. The subsequent preparation of an apprehension report or the submission of papers before the Juvenile Justice Board cannot retrospectively validate an action which was impermissible at the threshold. The statutory procedure is required to be followed at the stage prescribed by the Rule. A later act cannot cure the absence of the very procedure which the legislature and the Rules require the police to adopt.

59. This Court is conscious that the occurrence involved the death of a person and that the investigating agency was required to conduct an effective investigation into the circumstances of the accident. Nothing in Rule 8 prevents the police from investigating the occurrence, collecting evidence, identifying the person responsible or taking lawful action against adults who may be liable under the applicable law. What the Rule prohibits is the adoption of the ordinary FIR procedure against a child in circumstances where the Rule requires the prescribed child-sensitive procedure to be followed.

60. The statutory restriction cannot be diluted on the ground that the alleged conduct was grave, that the consequence was tragic or that the matter attracted public attention. The legislature has consciously prescribed different procedures for children depending upon the statutory classification of the alleged offence. The investigating agency is bound by that legislative choice.

61. In the circumstances, this Court finds that, insofar as the CCL was identified and proceeded against through the FIR in the present case, the procedure adopted by the investigating agency was contrary to Rule 8(1) of the JJ Model Rules. The initial recording of the occurrence against an unknown person is distinct from the subsequent impermissible act of proceeding against the identified child through the FIR. The finding of illegality is confined to the latter action and to the procedure adopted against the CCL.

62. The apprehension of the CCL also requires consideration in the light of the proviso to Rule 8(1). As already found, the offences alleged against the CCL do not fall within the category of heinous offences under Section 2(33) of the JJ Act. The power to apprehend a child in a petty or

serious offence is restricted by the proviso to Rule 8(1), subject to the exception where apprehension is in the best interest of the child.

63. The exception relating to the best interest of the child cannot be treated as a general or unrestricted power to apprehend a child whenever the investigating agency considers it convenient or desirable. The circumstances warranting such apprehension must have a rational connection with the welfare and protection of the child. The exception is intended to serve the interest of the child and not to provide an alternative route for custodial investigation or to meet demands arising from the gravity of the occurrence or public reaction.

64. In the present case, the materials placed before this Court do not disclose any circumstance demonstrating that apprehension of the CCL was necessary in his own best interest. There is no material to show that the child was exposed to an immediate danger from which apprehension was required to protect him, or that his welfare necessitated taking him into police custody. The apprehension was undertaken in connection with the alteration of alleged offence as Sec.105 BNS and investigation based on the same including collection of evidence and not on account of any demonstrated necessity arising from the best interest of the child.

65. The fact that the child was subsequently produced before the Juvenile Justice Board does not, by itself, validate the initial decision to apprehend him. The legality of apprehension has to be tested with reference to the statutory conditions existing at the time when the power was exercised.

66. Consequently, this Court finds that the act of proceeding against the CCL through the FIR and his subsequent apprehension were contrary to

the statutory safeguards contained in Rule 8(1) of the JJ Model Rules. The finding is confined to the legality of the procedure adopted against the CCL and shall not be understood as an adjudication upon the truth or otherwise of the allegations relating to the accident. The point is answered against the appellants.

POINT NO. 3:-Whether the investigating agency complied with the statutory procedure and safeguards contemplated under the JJ Act and the Rules in apprehending the CCL and producing him before the Board?

67. The conclusion arrived at under Point No. 2 makes it necessary to examine whether the subsequent procedure adopted by the investigating agency complied with the remaining safeguards contemplated under the JJ Act and the Rules.

68. Section 10 of the JJ Act deals with the apprehension of a child alleged to be in conflict with law and requires that, where a child is apprehended, the child shall be placed under the charge of the Special Juvenile Police Unit or the designated Child Welfare Police Officer and produced before the Board within the period prescribed by law. The child is not to be placed in a police lock-up or jail. The statutory scheme requires the police to deal with the child in a manner consistent with the dignity and protection guaranteed by the Act.

69. Section 13 of the JJ Act requires the designated Child Welfare Police Officer or the Special Juvenile Police Unit, as the case may be, to inform the parent or guardian of the child and to inform the Probation Officer or Child Welfare Officer for preparation of the Social Investigation Report. Rule 8(2) of the Model Rules further prescribes the steps to be

taken when a child is apprehended. The police officer concerned is required to place the child under the charge of the Special Juvenile Police Unit or Child Welfare Police Officer, who shall immediately inform the parents or guardian, the Probation Officer and the Child Welfare Officer or Case Worker, as prescribed.

70. These provisions are intended to ensure that a child is not dealt with as an ordinary accused person. The presence and involvement of the parent or guardian, the assistance of the Probation Officer and the participation of the Child Welfare Officer or Case Worker are safeguards designed to ensure that the child is treated in accordance with the principles of care, protection, dignity and rehabilitation.

71. The apprehension report disclose that the CCL was again apprehended at about 21.45 hours on 25.10.2026 in the presence of his parents and that the grounds of apprehension were communicated to his father.

72. However, compliance with the requirements relating to intimation and production must be assessed in the context of the antecedent legality of the apprehension itself. Rule 8(2) prescribes additional safeguards to be followed when a child is lawfully apprehended. It does not confer an independent power to apprehend a child in circumstances where Rule 8(1) restricts the exercise of that power. Compliance with the subsequent formalities cannot cure the absence of legal authority to apprehend the child at the threshold.

73. The production of the CCL before the Juvenile Justice Board within the prescribed period is undoubtedly a relevant safeguard. Nevertheless, timely production before the Board does not retrospectively

validate an apprehension which was not authorised by the governing statutory provisions.

74. The materials placed before this Court do not establish that the procedure prescribed under Rule 8(1), namely, recording the information in the General Diary and forwarding the Social Background Report in Form I to the Board, was followed. Nor do the records establish any circumstance bringing the apprehension within the exception relating to the best interest of the child. The mere issuance of a notice to the parent or guardian under Section 13 of the JJ Act cannot substitute the procedure required under Rule 8(1).

75. The statutory procedure is not a matter of formality which may be complied with at the convenience of the investigating agency. Each safeguard has a distinct purpose. The General Diary procedure ensures that the child is not unnecessarily subjected to the ordinary FIR process; the Social Background Report enables the Board to assess the child's circumstances; and the requirement of intimation to the parent, Probation Officer and Child Welfare Officer ensures that the child receives the protection and assistance contemplated by the Act.

76. The absence of the prescribed procedure is particularly significant in the present case because the records indicate that the police had identified the child at the earliest stage itself. There was, therefore, no apparent impediment to following the procedure specifically designed for dealing with a child alleged to have committed a non-heinous offence.

77. The appellant has not placed any material before this Court to establish that the apprehension was necessitated by the best interest of the child or that the prescribed procedure was followed in substance. The

subsequent submission of an apprehension report and production of the child before the Board cannot be treated as sufficient compliance with the statutory scheme.

78. This Court reiterates that the JJ Act does not confer immunity upon a CCL from lawful investigation. It regulates the manner in which such investigation is to be undertaken. The police are entitled and duty-bound to investigate allegations of offences, but the investigation must be conducted within the limits prescribed by the special legislation. The statutory protection afforded to a child cannot be treated as an obstacle to investigation, nor can the urgency or seriousness of an investigation be invoked to dispense with the procedure enacted by Parliament.

79. On an overall consideration of the case records, the apprehension report and the connected records, this Court finds that the investigating agency did not comply with the statutory procedure contemplated under Rule 8(1) and the safeguards governing the apprehension of a child under the JJ Act and the Rules. The subsequent production of the CCL before the Board does not cure those deficiencies. The point is answered against the prosecution.

<u>POINT NO. 4:-</u>Whether the Juvenile Justice Board was justified in granting bail to the CCL, and whether its reference to Section 480 of the BNSS has any bearing on the legality of the order?

80. The next question concerns the legality and sustainability of the order passed by the Juvenile Justice Board granting bail to the CCL. The principal contention of the appellants is that the Board entertained the bail application under Section 480 of the BNSS, whereas the special provision

governing release of a child alleged to be in conflict with law is Section 12 of the JJ Act.

81. Section 12 of the JJ Act is a special provision dealing with bail to a person who is apparently a child alleged to be in conflict with law. It begins with a non obstante clause and expressly provides that, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force, such child shall be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of a fit person.

82. The provision further stipulates that bail may be refused only where there are reasonable grounds for believing that the release is likely to bring the child into association with any known criminal, expose the child to moral, physical or psychological danger, or defeat the ends of justice. These are the three statutory exceptions governing the release of a child.

83. The scheme of Section 12 is materially different from the general law of bail applicable to adult accused persons. The presumption under the JJ Act is in favour of release, and refusal of bail is an exception which must be justified by reference to one or more of the grounds expressly enumerated in the proviso. The gravity of the alleged offence, by itself, does not constitute an independent fourth exception.

84. The use of the non obstante clause in Section 12 makes it clear that the special statutory provision overrides inconsistent provisions of the general criminal procedure law. Therefore, the application of Section 480 of the BNSS cannot displace or supplant the special regime under Section 12 of the JJ Act. The Juvenile Justice Board is required to apply the statutory test prescribed by Section 12 while considering the release of a child.

85. At the same time, the mere reference to an incorrect or inapplicable statutory provision in an order does not invariably render the order void, if the authority otherwise possessed jurisdiction to pass the order and the substance of the decision demonstrates that the correct statutory test was applied. The legality of an order must be assessed with reference to its substance, reasoning and operative effect, and not merely by isolating the provision mentioned in its heading or introductory portion.

86. In the present case, the Juvenile Justice Board undoubtedly had jurisdiction to consider the release of the CCL under Section 12 of the JJ Act. The Board was not exercising jurisdiction under Section 480 of the BNSS as an ordinary criminal court dealing with an adult accused. Its jurisdiction arose from the JJ Act itself. Therefore, any reference to Section 480 in the bail application or in the impugned order cannot, by itself, confer or take away the jurisdiction vested in the Board under Section 12.

87. The material question is whether the Board considered the application in the light of the statutory exceptions under Section 12 and whether the conclusion reached by it is consistent with the statutory scheme. On perusal of the impugned order, this Court finds that the Board considered the question of release of the CCL and passed the order granting bail in the exercise of its jurisdiction under the JJ Act. The reference to Section 480 of the BNSS, to the extent it appears in the proceedings, cannot be treated as a ground for setting aside the order when the Board was otherwise competent to consider the release of the child and the substantive statutory test under Section 12 governs the matter.

88. The appellants cannot succeed merely by establishing that Section 480 of the BNSS was referred to in the proceedings. They must further demonstrate that the Board's decision is contrary to the mandatory

requirements of Section 12 or that one or more of the exceptions under the proviso is established by the materials on record. Moreover, the bail application does not quote any section either 480 BNSS or Sec.12 of JJ Act. It is a handwritten application to release the CCL on bail alone.

89. This Court, therefore, finds that the reference to Section 480 of the BNSS does not, in the circumstances of the present case, by itself vitiate the impugned order. The power to release the CCL was vested in the Board under Section 12 of the JJ Act, and the legality of the order must be tested under that special provision. This point is answered against the appellants.

POINT NO. 5:-Whether any of the exceptions contemplated under the proviso to Section 12(1) of the JJ Act is attracted so as to warrant denial or cancellation of bail?

90. This is the central question arising in the present appeals. The appellants seek cancellation of the bail granted to the CCL primarily on the ground that the nature and gravity of the alleged occurrence, the death of the victim, the alleged manner of driving and the surrounding circumstances justify denial of release. The State has additionally relied upon the alleged influence of the family of the CCL, his age, possession of a mobile phone and social media accounts, the alleged adverse effect upon the investigation and the need to maintain public confidence in the administration of justice.

91. Section 12(1) of the JJ Act provides that, when a 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 is brought before the Board, such person shall be released on bail with or without surety or placed under the supervision of a Probation Officer or

under the care of a fit person, notwithstanding anything contained in the general criminal procedure law or any other law for the time being in force.

92. The proviso to Section 12(1) permits refusal of bail only where there are reasonable grounds for believing that the release is likely to:

(i) bring the child into association with any known criminal; or

(ii) expose the child to moral, physical or psychological danger; or

(iii) defeat the ends of justice.

93. The use of the expression "shall be released" in the main provision is significant. The legislature has consciously placed release as the normal rule and refusal as an exception. The proviso does not authorise refusal of bail merely because the allegation is serious or because the consequence of the alleged act is grave. The existence of reasonable grounds attracting one or more of the three specified exceptions must be demonstrated by reference to the materials available before the Board.

94. The first exception concerns the likelihood of the CCL being brought into association with any known criminal. This exception requires some material to establish a real and reasonable likelihood of such association if the child is released. A mere assertion that the child belongs to an influential family or has access to persons of influence does not satisfy this requirement. The State has not placed any specific material before this Court to establish that the release of the CCL would bring him into association with any known criminal.

95. The second exception concerns exposure of the child to moral, physical or psychological danger. The provision is intended to protect the child from circumstances which may adversely affect his safety, welfare or

development. It is not enough to make a general assertion that the child may be exposed to danger. There must be material demonstrating a reasonable likelihood of such danger arising from the release of the child.

96. In the present case, the State has not produced any specific Social Investigation Report or other material demonstrating that the release of the CCL would expose him to moral, physical or psychological danger. On the contrary, the circumstances placed before the Court indicate that the child has parental care and a family environment in which he can remain, subject to appropriate conditions and supervision. The State has not established that such care is unsuitable or that the child would be exposed to any of the dangers contemplated by the proviso.

97. The third exception concerns the possibility that release of the child would defeat the ends of justice. This expression must be understood in the context of the object and scheme of the JJ Act. It cannot be interpreted so broadly as to make the statutory rule of release illusory. The possibility of interference with the investigation, intimidation of witnesses, tampering with evidence or evasion of the proceedings may, depending upon the facts, be relevant. But such a possibility must be supported by reasonable grounds and cannot be presumed merely from the seriousness of the allegation.

98. The State has contended that the release of the CCL would adversely affect the investigation. However, no specific instance of intimidation of a witness, destruction of evidence, interference with the investigation or non-cooperation by the CCL has been established before this Court. The possession of a mobile phone or the existence of social media accounts, without any specific material connecting the same to

interference with the investigation or the administration of justice, cannot by itself attract the third exception.

99. The allegation that the CCL belongs to an influential family also does not, by itself, constitute a statutory ground for refusing bail. The law does not create a separate category of children who may be denied the protection of Section 12 on the basis of their family background, social standing or economic circumstances. The statutory test must be applied uniformly, without regard to the social or economic status of the child or his family.

100. The contention that the CCL is approaching the age of majority is equally insufficient. The relevant age for determining whether a person is a child in conflict with law is the age on the date of commission of the alleged offence. The fact that the child may subsequently attain majority does not dilute the protection available under the JJ Act in respect of an offence allegedly committed when he was below eighteen years of age.

101. The possession of a mobile phone or the use of social media accounts also cannot, in the absence of specific material, be treated as a ground for refusing bail. The question is not whether the child has access to technology, but whether there are reasonable grounds to believe that his release would expose him to one of the dangers specified in Section 12 or would defeat the ends of justice. No such nexus has been established.

102. The State has also relied upon the alleged video recording of the speedometer showing a speed of 108 kilometres per hour and the allegation that the CCL was driving the vehicle with one hand while recording the speedometer with the other hand during rainy conditions. These allegations, if ultimately established in accordance with law, may

have relevance to the determination of the alleged conduct and the nature of the offence. They are matters which require investigation and adjudication in accordance with the procedure prescribed by the JJ Act.

103. However, the gravity of the allegation cannot be substituted for the statutory grounds under Section 12. Even where the allegation is grave and the consequences are tragic, the Board cannot refuse bail unless the materials establish one or more of the exceptions specifically enumerated in the proviso. The Court cannot add a further exception to the statute on the basis of the seriousness of the occurrence or the emotional impact of the loss of life.

104. The death of the victim is undoubtedly a matter of grave concern. The loss suffered by the family of the deceased is irreversible, and the Court is conscious of the pain and grievance of the appellants. However, the statutory rights of a child cannot be displaced by the gravity of the consequence alone. The JJ Act does not provide for automatic detention of a child merely because the alleged offence has resulted in the death of a person in a road traffic accident.

105. The contention that the release of the CCL would send an undesirable message to society or undermine public confidence in the administration of justice cannot constitute an independent ground for refusal of bail. Public confidence in the administration of justice is sustained by adherence to the law and not by departure from statutory safeguards in response to public sentiment. The Court is required to apply the law as enacted and cannot permit public reaction, however intense, to determine the legal consequences of an allegation against a child.

106. The specific contention raised by the appellants in Criminal Appeal No. 2 of 2026, who are none other than the family members of the deceased, is that the order granting bail to the CCL is liable to be set aside, as his release would expose him to danger and would also defeat the ends of justice. However, the submissions made by the learned counsel for the appellants during the course of arguments disclose a rather contradictory position. The learned counsel himself submitted that the children of the deceased had staged agitation before the police station and had given interviews to news channels and through social media expressing anger against the release of the CCL and making statements which could be perceived as intimidating. He further submitted that there is considerable public outrage and resentment against the CCL. If that be the position, the apprehension of danger to the CCL appears to arise from the very agitation and public resentment attributed to the appellants' own side. The appellants cannot rely upon such circumstances, particularly when allegedly generated or aggravated by their own side, as a ground to seek cancellation of the bail granted to the CCL. The allegations of danger to the CCL and the plea that his continued custody is necessary in the interests of justice, when considered alongside the submissions regarding public agitation and intimidation, do not furnish a consistent or legally sustainable basis for invoking the exceptions under Section 12(1) of the JJ Act. Such contradictory submissions cannot constitute a ground for setting aside the order of release.

107. The appellant in Criminal Appeal No. 2 of 2026 further contended that the order granting bail to the CCL is liable to be set aside on the grounds contemplated under the proviso to Section 12(1) of the JJ Act. This contention cannot be considered in isolation from the earlier course of

action adopted by the investigating officer. As already found, the registration of the FIR against the CCL and the subsequent apprehension purportedly made after incorporating Section 105 of the BNS were contrary to the procedure prescribed under Rule 8 of the Model Rules. Even before such subsequent action, the investigating officer had released the CCL into the custody of his father on an undertaking to produce him before the JJB as and when directed. Such release was in consonance with the scheme of Section 12(1) of the JJ Act read with Rule 8(7) of the Model Rules. The CCL here in was brought to the Police station twice in the same day without any legal basis and the same itself is illegal. In the absence of any lawful basis for the subsequent apprehension, the appellant cannot rely upon that very course of action to seek interference with the release subsequently ordered by the Board. The contention, therefore, does not furnish a sustainable ground for setting aside the order of release.

108. The principle that the rule of law must prevail over public pressure assumes particular significance in proceedings under the JJ Act. The legislation has deliberately adopted a child-centric approach, recognizing that children require a distinct legal framework which priorities rehabilitation, reintegration and protection. The statutory mandate cannot be diluted merely because a particular occurrence has attracted public attention or agitation.

109. It is also necessary to observe that the appellants contention that the CCL should be placed in an Observation Home for the purpose of further investigation is not consistent with the scheme of Section 12. An Observation Home is not intended to serve as a place of custodial detention for facilitating investigation. The statutory scheme contemplates release of

the child, subject to appropriate supervision or care, unless one or more of the exceptions under Section 12 is established.

110. The power to place a child under the supervision of a Probation Officer or under the care of a fit person is an alternative contemplated by Section 12. It is not equivalent to placing the child in an Observation Home merely to facilitate the collection of evidence. The investigating agency must conduct its investigation in accordance with law and cannot seek the custody of a child as a matter of investigative convenience.

111. The appellants have also contended that the release of the CCL would frustrate his rehabilitation and that continued institutional placement would be in his best interest. This contention overlooks the legislative preference for family-based care and release under appropriate supervision. Institutionalization is not intended to be the ordinary response to an allegation of an offence. The principles underlying the JJ Act require that institutional placement be resorted to only in accordance with the statutory conditions and when it is necessary in the best interest of the child.

112. The Court is also mindful of the fact that the child has allegedly been exposed to public attention and the circulation of personal details and photographs. Section 74 of the JJ Act prohibits disclosure of the identity of a child in conflict with law in the circumstances specified therein. The protection of the child's identity and dignity is an integral part of the statutory framework. Any apprehension regarding the safety or welfare of the child arising from public exposure must be addressed through appropriate protective measures and cannot be converted into a ground for denying the child the statutory right to release.

113. On a cumulative consideration of the materials placed before this Court, this Court finds that the appellants have not established reasonable grounds for believing that the release of the CCL is likely to bring him into association with any known criminal, expose him to moral, physical or psychological danger, or defeat the ends of justice. None of the three exceptions under the proviso to Section 12(1) of the JJ Act is attracted on the materials presently available.

114. The JJB was, therefore, justified in granting bail to the CCL. The grounds urged by the appellants, though understandable in the context of the tragic occurrence, do not satisfy the statutory requirements for refusal or cancellation of bail under Section 12 of the JJ Act. This point is answered against the appellants.

POINT NO. 6:- Whether the appellants have established sufficient grounds for interference with the impugned order granting bail?

115. The scope of the present appeals is to examine the legality, propriety and sustainability of the order passed by the Juvenile Justice Board granting bail to the CCL. The appellate jurisdiction under Section 101 of the JJ Act is required to be exercised in accordance with the statutory scheme governing children alleged to be in conflict with law. The appellate court must examine whether the Board applied the correct legal principles and whether the conclusion reached by it is sustainable on the materials available.

116. The appellants have challenged the order on several grounds, including the alleged application of Section 480 of the BNSS, the seriousness of the alleged conduct, the death of the victim, the alleged excessive speed of the vehicle, the age and social background of the CCL,

the alleged effect upon the investigation and the statutory exceptions under Section 12 of the JJ Act.

117. This Court has already found that the reference to Section 480 of the BNSS does not, by itself, invalidate the order passed by the Board, which had jurisdiction under Section 12 of the JJ Act. The Court has further found that the offences alleged against the CCL do not fall within the category of heinous offences under Section 2(33) of the JJ Act and that the procedure adopted by the investigating agency in proceeding against the child through the FIR and apprehending him was contrary to Rule 8 of the JJ Model Rules.

118. The finding regarding the illegality of the police procedure does not mean that the allegations relating to the accident stand adjudicated or that the investigation into the occurrence must come to an end. The investigating agency remains at liberty to proceed in accordance with law, subject to the safeguards and procedure prescribed under the JJ Act and the Rules. The present appeals are concerned with the legality of the order granting bail and not with the determination of the guilt or innocence of the CCL.

119. The fact that the alleged occurrence resulted in the death of a person cannot be minimised. Equally, the fact that the child was allegedly driving at an excessive speed or recording the speedometer, if established, may be relevant to the inquiry before the JJB. However, those allegations cannot be treated as conclusive at the stage of deciding bail, nor can they displace the mandatory presumption in favour of release under Section 12 in the absence of any of the statutory exceptions.

120. The appellants has not established that the CCL is likely to associate with known criminals, that his release would expose him to moral, physical or psychological danger, or that his release would defeat the ends of justice. The allegation of adverse impact upon the investigation is not supported by specific material demonstrating interference, intimidation, tampering or non-cooperation. The grounds urged by the State are therefore insufficient to justify cancellation of bail.

121. The legal heirs of the deceased are entitled to place their grievance before the Court and to seek appropriate legal remedies in accordance with the statute. Their appeal has been considered on its merits. Nevertheless, the statutory right of a child under Section 12 cannot be curtailed merely because the family of the deceased is aggrieved by the release of the child. The Court is required to balance the legitimate grievance of the victim's family with the mandatory statutory safeguards applicable to the child.

122. This Court also finds it necessary to emphasise that the special procedure prescribed under the JJ Act is not a matter of administrative discretion. The police authorities are bound to comply with Rule 8 and the other safeguards prescribed under the Act and the Rules. Public sentiment, agitation, media attention or any demand for a particular outcome cannot authorise the investigating agency to adopt a procedure contrary to law. The rule of law requires that the statutory rights of a child be protected even in cases involving serious allegations and tragic consequences.

123. The statutory safeguards under the JJ Act are not intended to obstruct a lawful investigation or to confer immunity upon a child. They regulate the manner in which the State must exercise its powers when

dealing with a child alleged to be in conflict with law. The investigating agency is expected to act within those statutory limits. The seriousness of the occurrence does not confer upon the police an authority which the statute has expressly withheld.

124. The Court is equally conscious that the impugned order is an order granting bail and that the question before it is not whether the CCL should ultimately be found to have committed the alleged offence. That question is within the jurisdiction of the Juvenile Justice Board in the inquiry to be conducted in accordance with law. At this stage, the only question is whether the statutory conditions for denying release under Section 12 have been established. For the reasons already stated, this Court finds that they have not.

125. Having considered the rival submissions, the case diary, the FIR, the alteration reports, the apprehension report, the records of the Juvenile Justice Board and the applicable statutory provisions, this Court finds no legally sustainable ground warranting interference with the order granting bail to the CCL. The appellants have not established that the order is contrary to Section 12 of the JJ Act or that any of the exceptions under the proviso is attracted.

126. In view of the above discussion, the appeals are liable to be partly allowed. Though the grounds raised by the appellants are insufficient to displace the statutory entitlement of the CCL to release under Section 12 of the JJ Act, the failure of the Board to examine the legality of the FIR-based procedure and the subsequent apprehension, in the light of Rule 8 of the Model Rules, warrants interference to that limited extent. Accordingly, the order of the Board granting release to the CCL under Section 12 is affirmed. However, the impugned order is set aside insofar as the Board

proceeded on the basis of the FIR and apprehension report without examining the statutory procedure applicable to the CCL. The Board is directed to proceed further in accordance with the JJ Act and the Model Rules, after ensuring compliance with the applicable procedural safeguards, as directed in this judgment. This point is answered accordingly.

POINT NO. 7:- What order as to costs and reliefs?

127. In view of the findings on Points Nos. 1 to 6, the appeal is **partly allowed**. The impugned order passed by the Juvenile Justice Board is set aside to the extent that the Board proceeded upon and accepted the FIR, apprehension report and the consequential police action as the proper statutory procedure for bringing the CCL before it, without examining the restrictions and safeguards prescribed under Rule 8 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016.

128. However, the order releasing the CCL on bail under Section 12 of the JJ Act is hereby **affirmed**. Section 12 applies to a child alleged to have committed either a bailable or a non-bailable offence. The statutory entitlement to release under that provision is not made dependent upon whether the alleged offence is classified as petty, serious or heinous. The JJB was, therefore, competent and bound to consider the question of release under Section 12 once the CCL was brought before it. On the facts and circumstances of the present case, the decision to release the CCL does not call for interference. The release already granted shall remain in force, subject to the conditions imposed by the JJB.

129. The JJB shall not, however, proceed further on the assumption that the registration of the FIR and the apprehension of the CCL were in accordance with the procedure prescribed under the JJ Act. The JJB shall

call upon the competent police authority/Special Juvenile Police Unit to place before it the relevant General Diary entry contemplated under Rule 8(1) of the Model Rules, together with the Social Background Report in Form 1 and the particulars regarding the circumstances and necessity, if any, for apprehending the CCL. The records so placed shall disclose the actual dates and sequence of events. No retrospective creation, alteration or backdating of any official record shall be permitted. If the prescribed General Diary entry or any other contemporaneous record was not maintained, the competent police authority shall specifically report that fact to the Board.

130. The JJB shall independently examine the materials so placed and ensure that all further proceedings are conducted strictly in accordance with the JJ Act and the applicable Rules, including Rules 8 and 10 of the Model Rules. The JJB shall also examine the circumstances surrounding the subsequent apprehension or direction to produce the CCL, if any, particularly whether the earlier order of release was in force and whether the subsequent action was authorised by law. The mere existence of the earlier FIR or apprehension report shall not be treated as sufficient authority for any subsequent apprehension.

131. It is clarified that the setting aside of the impugned order to the limited extent indicated above shall not be understood as setting aside the order of release under Section 12, nor shall it be construed as an adjudication on the truth or otherwise of the allegations against the CCL. The JJB shall proceed in accordance with law, keeping in view the statutory safeguards intended to protect the rights and interests of the child.

132. The jurisdictional Cyber Police, pursuant to the direction issued by this Court, has submitted a report stating that steps are being

taken regarding the alleged unauthorised use and circulation of the photographs and personal details of the CCL through social media, thereby disclosing his identity. In view of the protection against disclosure of the identity of a child under Section 74 of the Juvenile Justice Act, the Investigating Officer is directed to follow up the matter with the Cyber Police and ensure that appropriate action is taken in accordance with law to prevent further disclosure of the identity of the CCL.

133. The office shall communicate a copy of this judgment to the Juvenile Justice Board and the competent police authority/Special Juvenile Police Unit for compliance.

Order as to costs:-

Criminal Appeal No. 2/2026:- The appeal is disposed of as stated above, with no order as to costs.

Criminal Appeal No. 3/2026:- Several procedural irregularities were noticed in the proceedings, though none was brought to the notice of this Court during arguments. The records revealed that the CCL had been apprehended twice on the same day. Further, the list of similar cases produced by the Investigating Officer, pursuant to the direction of this Court, revealed that FIRs had been registered against CCLs in such cases as well. In view of the fact that this Court is the designated Children's Court for the district, it was considered appropriate to call for the report referred to above. The circumstances also raised a concern as to whether this appeal had been filed without due verification of the legality of the proceedings. Hence, I decided to hear the appellants in Criminal Appeal No. 3/2026 on the question as to why costs should not be imposed.

Heard the learned Public Prosecutor regarding order as to costs. It is submitted by the learned Public Prosecutor that there is no mala fide intention on the part of the investigating agency to purposefully act against the child in conflict with law and in derogation of JJ Act and Rules and also undertook that the appellants are ready to take corrective measures in view of the provisions of the JJ Act and the rules. Having regard to the facts and circumstances of the case, particularly the public pressure and agitation faced by the investigating agency, as revealed from the case records and also from the arguments of the parties while the appeals were heard, this Court is of the view that imposition of costs upon the State or the investigating officer would not serve any useful purpose. Accordingly, no costs are imposed.

2. However, the investigating agency is hereby strictly cautioned to scrupulously adhere to the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, while dealing with every case in which an offence is alleged to have been committed by a child in conflict with law. The statutory safeguards provided for children shall not be disregarded or diluted under the pressure of public agitation or otherwise. The competent police authorities shall ensure that the procedure prescribed under the Act and Rules is followed in letter and spirit in all such cases.

3. A copy of this judgment shall be forwarded to the District Police Chief, rural and City, Ernakulam for information and for taking appropriate steps to ensure that the police officers under his jurisdiction, particularly the officers of the Special Juvenile Police Unit and Child Welfare Police Units, are made aware of and strictly adhere to the provisions of the Juvenile

Justice (Care and Protection of Children) Act, 2015, and the Rules framed thereunder, while dealing with cases involving children in conflict with law.

Dictated to the Confidential Assistant, corrected by me and pronounced in open court on this the 05th day of November,2026.

Sd/-
Kavitha Gangadharan,
Additional District & Sessions Judge.

APPENDIX

Ext.P1- Copy of Order dated 25/10/2026 passed by the Juvenile Justice Board, Ernakulam,

Dictated to the Confidential Assistant, corrected by me and pronounced in open court on this the 05th day of November,2026.

Sd/-
Kavitha Gangadharan,
Additional District & Sessions Judge.

//True copy//

By Order

SHERISTADAR.

Crl.Appeal No.02/2026 and Crl.Appeal No.03/2026

Judgment

Dated:05.11.2026.