



2026:AHC-LKO:21543

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

CRIMINAL REVISION No. - 1470 of 2025

Pradeep Kori @ Pradeep Harijan (Minor) Thru. Father
(Natural Guardian)

.....Revisionist(s)

Versus

State Of U.P. Thru. Addl. Chief Secy. Home Lko. And
Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Nagendra Bahadur Singh, Drupad
Upadhyay, Mukesh Kumar Tewari, Sushil
Kumar Yadav

Counsel for Opposite Party(s) : G.A.

Court No. - 13

HON'BLE MANISH KUMAR, J.

1. Case called out.

2. No one put in appearance on behalf of the opposite party no. 2.

3. This Court, on 10.03.2026, passed the following order:-

" 1. Case is adjourned today, as Sri Sushil Kumar Yadav, learned counsel for revisionist has sent an out of station slip.

2. List this case on 12.03.2026.

3. It is made clear that on the next dates of listing, the case would not be adjourned on account of non-appearance of learned counsel for the parties and appropriate orders would be passed in the first call even in absence of parties' counsel. "

4. Considering the stop order dated 10.03.2026, this court proceeded to hear the present revision on merits.

5. Heard learned counsel for the applicant/revisionist and learned A.G.A for the State and perused the record.

6. The present criminal revision has been preferred against the order dated 17.10.2025 passed by the Children Court/Special Judge, POCSO Act, Pratapgarh in Criminal Appeal No. 41 of 2025, as well as the order dated 23.05.2025 passed by the Juvenile Justice Board, Pratapgarh in Miscellaneous Case No. 36 of 2025.

7. The facts of the case are that an FIR dated 11.03.2025 has been lodged

against the applicant under Sections 65 and 351(3) of the Bharatiya Nyaya Sanhita, along with Section 3/4(2) of the POCSO Act, 2012, Police Station Leelapur, District Pratapgarh alleging therein that the applicant forcibly outraged the modesty of the daughter of the informant, who is stated to be about 15 years of age, and also threatened her that in case she disclosed the incident to anyone, her family members would be killed. It is further alleged that a neighbour had seen the applicant while the applicant was leaving the house of the informant.

8. Learned counsel for the applicant has submitted that the applicant was a minor and he was aged about 15 years 2 months and 10 days at the time of the alleged incident. As per the High School marksheet issued by the Board, his date of birth is recorded as 01.01.2010. However, on behalf of the informant/complainant, the teacher of the primary school has produced the scholar register of Class V before the Board, according to which the date of birth of the applicant is recorded as 13.05.2009 as per which the applicant was 15 years, 8 months, and 29 days at the time of the alleged incident.

9. It is further submitted that the Juvenile Justice Board, in contravention of Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015, referred the matter to the Medical Board for ossification test for determination of the age of the applicant, despite the fact that two documents were already available on record regarding the proof of date of birth of the applicant. The appeal preferred by the applicant before the Special Judge/POCSO Act was dismissed, affirming the order of the Board on the ground that there were two contradictory documents regarding the date of birth of the applicant.

10. Learned counsel for the applicant has further contended that under Section 94 of the Act, 2015 which provides that the date of birth recorded in the school certificate or matriculation certificate is to be considered for determination of age, and only in the absence of such documents, the birth certificate issued by a municipal authority or Panchayat is to be considered. It is only in the absence of both these categories of documents that medical opinion, including ossification test may be sought.

11. On the other hand, learned A.G.A. has vehemently opposed the revision and submitted the Board has rightly ordered an ossification test for proper determination of age. However, he is unable to dispute the submissions made by learned counsel for the applicant regarding the mandate of Section 94 of the Act, 2015.

12. After hearing learned counsel for the parties and perusing the record, it is evident that Section 94 of the Juvenile Justice (Care and Protection of

Children) Act, 2015, which deals with presumption and determination of age, clearly provides that for the purpose of age determination, the following order of preference is to be followed:-

(i) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available;

(ii) in the absence thereof, the birth certificate given by a corporation or a municipal authority or a Panchayat; and

(iii) only in the absence of the above, the age shall be determined by an ossification test or any other medical age determination test conducted on the orders of the Committee or the Board.

13. In the present case, there is no dispute that two documents regarding the date of birth of the applicant are available on record, as per High School certificate issued by the Board, the date of birth of the applicant is 01.01.2010 whereas as per the school record of Class V, the date of birth is 13.05.2009.

14. In view of the facts, circumstances and discussion made hereinabove, it is evident that even if any of the document is taken into consideration, the only fact that comes out is that the applicant was below 16 years of age at the time of the alleged incident. In such circumstances, there was no occasion for the Juvenile Justice Board to direct an ossification test for determination of age. The appellate court, i.e., the Special Judge/POCSO Act, Pratapgarh, has also failed to consider the same while affirming the order of the Board, thus both the orders are in clear contravention of Section 94 of the Act, 2015. It is to be noticed that clause (iii) of Section 94 begins with the word "Only" i.e to say the other age determination test could be resorted to only in absence of any document mentioned in clause (i) and (ii) and not otherwise.

15. Accordingly, the present criminal revision is **allowed**.

16. In view of the facts, circumstances, and discussions made hereinabove, the impugned order dated 17.10.2025 passed by the Children Court/Special Judge, POCSO Act, Pratapgarh in Criminal Appeal No. 41 of 2025, as well as the order dated 23.05.2025 passed by the Juvenile Justice Board, Pratapgarh in Miscellaneous Case No. 36 of 2025 are hereby set aside.

17. Let the applicant- **Pradeep Kori @ Pradeep Harijan (Minor) Thru. Father (Natural Guardian)** be enlarged on bail, in the above mentioned case on executing a personal bond by his father/natural guardian with two reliable sureties in the like amount to the satisfaction of the Court/Board concerned and on submission of undertaking on affidavit by his father/natural guardian

that he/she will take due care of the juvenile, will not allow him to indulge in any unlawful or criminal activity or join the company of unlawful elements, will keep him under strict control, shall not attempt or tamper with the evidence or threaten the witnesses, shall not seek any adjournment on the date fixed for evidence, shall remain present before the trial Court on each date fixed either personally or through her counsel, failing which, the order of bail granted to Revisionist/Juvenile may be cancelled.

18. For a period of one year from today, the Juvenile/Revisionist shall appear before the District Probation Officer concerned along with his natural guardian on 10th of every month.

March 25, 2026
DiVYa

(Manish Kumar,J.)