

Bail for Children in Conflict with the Law

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**Section 12 does not distinguish
between bailable and non-bailable
offences for grant of bail**

**The bail is to be granted
irrespective of the nature of
offence and therefore, the
considerations for both bailable
and non-bailable offences will
be the same.**

Manoj @ Kali vs. The State (NCT of Delhi)

- *‘What needs to be adopted is a child friendly approach in the adjudication and disposition of matters in the best interest of children and for their ultimate rehabilitation through various institutions established under the enactment. What is important is that the court should keep in mind the developmental needs of juvenile and the necessity of his rehabilitation. It’s only if the developmental needs of the child require that he be kept in custody or that keeping in custody is necessary for his rehabilitation, or care or protection that his release would defeat the ends of justice, not otherwise. Thus if the release of the child interferes with his developmental needs, the bail can be declined by the Court on the grounds of defeat of ends of justice. Gravity of offence etc. cannot be considered as a ground for declining the bail; putting them under the head “would defeat the ends of justice”*

Anticipatory Bail

Section 12 – Bail in two situations:

- When a child is brought before the Board; or
- **He appears before the Board.**

Child may appear before JJB before apprehension.

Question:

Should bail be declined in cases where preliminary assessment is pending under Section 15?

Though, the forum of trial of this category of children has been changed from Juvenile Justice Board to Children's Court, there being no changes brought in Section 12, conditions for grant of bail to children remain same.

Release on bail in case of children without parental care

- Treat CICL as CNCP and transfer child to CWC

Important points to be remembered on grant of bail:

- There is no distinction between bailable and non-bailable offence for consideration of bail. A child can be granted bail in a non-bailable offence, but can be declined bail in a bailable offence depending upon the conditions.
- A child can be granted bail even if he is unable to produce the surety, which is not a condition precedent to release on bail.
- A child who is, or can, come into association of a criminal may not be released on bail.
- A child should not be released on bail if his release is likely to cause him moral, physical or psychological damage.
- A child can be granted anticipatory bail if he appears before court, and if all other conditions to grant bail are satisfied.
- A child between 16 to 18 years having committed heinous offence is entitled to bail on the same conditions as any other child.