

People's Education Society's
Adv. Balasaheb Apte
College of Law,
Mumbai



Title Sponsor

 **LAW COUNSELLORS**
ADVOCATES & SOLICITORS

**THE 12TH ANNUAL
ADV. B.P. APTE MEMORIAL
NATIONAL MOCK TRIAL,
MOOT COURT &
JUDGEMENT WRITING
COMPETITION, 2024**

PAPER BOOK

27TH TO 29TH SEPTEMBER, 2024

Media Partner

Live
Law.in
ALL ABOUT LAW

INDEX

| Sr. No. | Particulars | Page No. |
|----------------|--|-----------------|
| 1. | Proposition | 1-4 |
| 2. | Charge | 5 |
| 3. | Issue Process Order dated 13.09.2024 | 6 |
| 4. | Chargesheet | 7-8 |
| 5. | First Information Report | 9-11 |
| 6. | General Diary Entry No. 21 | 12 |
| 7. | General Diary Entry No. 29 | 13 |
| 8. | Spot Panchnama | 14-16 |
| 9. | Statement of PW-2 | 17-18 |
| 10. | Statement of PW-3 | 19-20 |
| 11. | Post-mortem Report | 21-24 |
| 12. | Social Background Report | 25-29 |
| 13. | Social Investigation Report | 30-39 |
| 14. | BSA Sec.63 Certificate | 40 |
| 15. | Annexure I | 41 |
| 16. | Production Order dated 09.07.2024 | 42-43 |
| 17. | Birth Certificates | 44-45 |
| 18. | Bail Order dated 15.07.2024 | 46 |
| 19. | Preliminary Assessment Order dated 02.08.2024 | 47-49 |
| 20. | Intelligence Quotient Report | 50-51 |
| 21. | Children's Court Appeal Order dated 05.09.2024 | 52-54 |

I. PRELIMINARY

1. Bindia is a sovereign democratic republic. It has the largest population in the world and is the fifth largest economy. It is a member of the United Nations and is a signatory to its various treaties and conventions. It gained independence in 1947 from colonial rule.
2. On 1st January 2024, old colonial era criminal laws were repealed and, in their place, The Bindia Nyaya Sanhita, 2023 ('**BNS**'), The Bindia Nagarik Suraksha Sanhita, 2023 ('**BNSS**') and The Bindia Sakshya Adhiniyam, 2023 ('**BSA**') became part of the criminal justice system of the country.
3. Due to the growing delinquency and child criminal rate in the country, the Bindian parliament felt it necessary to strengthen the Juvenile Justice System to complement its strong criminal justice system. Hence, the Juvenile Justice Act, 2015 ('**JJ Act**') came into force repealing the old Act. It was only after coming of the Juvenile Justice Act, 2015, that a further category was carved out of Juveniles between 16 to 18 years involved in offences such as murder and rape. Such crimes were categorized as 'heinous' via the new enactment.

II. FACTS

Kalanagari, a well-planned city and the industrial capital of Bindia was situated in the state of Maya Pradesh. Aarav Patel was an 8-year-old boy who resided with his parents in an upper middle-class locality of Lakeside Heights in the city. He was studying in the 3rd Std. of the prestigious Silver Oaks International School. Aarav's father would drop Aarav to his school

everyday at 7:50 A.M as the school assembly would begin at 08:00 A.M. It was compulsory for every student to attend and would last for 45-50 minutes.

On the morning of 4th July 2024, Rohit Saxena, the male P.E. teacher of Silver Oaks International School went to the washroom on the 2nd floor of the school building and was shocked to find Aarav, lying motionless on the floor in a pool of blood. Rohit immediately alerted the school authorities who called for an ambulance and Aarav was taken to a nearby Municipal Hospital. Aarav's parents also reached the hospital upon being notified about their son's condition by the school. However, Aarav was declared dead on arrival by the doctor at the Municipal Hospital.

As a result of this shocking incident, the term-end exams of the 8th, 9th and 10th Std. were postponed indefinitely which were originally scheduled to commence from 4th July, 2024. All the students were sent home. The school also notified Lakeside Heights Police Station.

On the basis of the information provided by the Informant, and the evidence procured during the investigation, the investigating agency suspected two 10th Std. students, Smith and Sumit studying in the same school. At first both of them denied any involvement. However, after they were apprehended, one of them confessed to the crime and also implicated the other as co-conspirator.

Smith and Sumit were minors and hence produced before the Juvenile Justice Board. However, Smith was over the age of 16 whereas, Sumit was still 15. Hence, according to the provisions of JJ Act, Smith was to undergo a Preliminary Assessment.

Post-Assessment it was decided by the Juvenile Justice Board that Smith was to be tried as an adult and his case was accordingly transferred to the

Children's Court. Smith's parents appealed against the order passed by the Board before the Children's Court on the grounds that the psychological assessment was done by a board member himself and no outside assistance was taken. The parents also objected to the form of psychological assessment conducted by the Board member. The Children's Court dismissed the appeal and trial was scheduled.

Smith's parents challenged the Constitutionality of Section 15 of the JJ Act via Writ Petition before the Hon'ble Maya Pradesh High Court. They also filed a Revision Application challenging the order of the Children's Court u/s 102 of the JJ Act.

III. QUESTIONS OF LAW BEFORE THE HIGH COURT

1. Whether section 15 of the JJ Act is in violation of the principle of equality as guaranteed by the Constitution of India?
2. Whether the Preliminary Assessment conducted was in violation of provisions of JJ Act and Rules as outside assistance was not taken for psychological assessment?
3. Whether the scope of revision court u/s 102 of JJ Act is wide enough to call into question the type of tests used by the Board member for conducting the psychological assessment?

**The participants may frame one more additional issue. However, the additional issue can only be pertaining to the subject-matter of the Moot Proposition.*

IV. SAVINGS

1. No application for admission / denial of documents can be moved either by the prosecution or defence.
2. Seals of the Court are to be presumed genuine and thus cannot be called into question.
3. Pages on which an endorsement of 'Certified Copy' is made are to be considered Certified Copies and their correctness cannot be called into question.
4. Objections of Primary / Secondary cannot be raised for the Panchnama.
5. The CCTV footage will not be provided. The contents of the CCTV footage as provided in Annexure I are accepted as facts.
6. The figures given in the IQ Test shall be assumed to be appropriate for a person having IQ of 96 according to the type of test administered.
7. No additional charges can be introduced during the trial.
8. The pending High Court challenge will have no bearing on the trial.
9. No audio-visual record of proceedings (including photos, videos or camera footage) as per the provisions of BNSS shall be provided. The same cannot be called for during the trial. The procedure relating to the same is assumed to be complied with.
10. For the purposes of competition, Writ Petition and Revision Application is clubbed together.
11. Other such instructions which are given at the Orientation Session.
12. For the purpose of Semi-final and Final Rounds, the Petition/Appeal/Revision is assumed to be admitted and at the final stage of hearing.
13. The Bail granted on 15.07.2024 till 2.08.2024 was further extended till date of trial before the Children's Court. The Bail order was seconded by the Children's Court and upheld till the trial date.

** For the purposes of the competition, laws in Bindia are pari materia to those present in Union of India.*

IN THE CHILDREN'S COURT AT KALANAGARI

Ch. C No. 5687/2024

State of Maya Pradesh.....

... Prosecution

Versus

Master Dholu.....

...Child in Conflict with Law (CCL)

CHARGE

I, WP Shetty, Additional Sessions Judge, Kalanagari seated at Children's Court, Kalanagari hereby charge you Master Dholu as follows;

(1) On Section 103 r/w 3(5) of the Bindian Nyaya Sanhita,2023 -
That you together with Master Bholu, while acting in furtherance of common intention, on the 4th July 2024, committed murder of Master Raja by stabbing him multiple times in the school washroom and thus committed an offence punishable u/s 103 r/w 3(5) of the Bindia Nyaya Sanhita, 2024, within the cognizance of this Court as per section 15 r/w 18(3) of the Juvenile Justice Act.

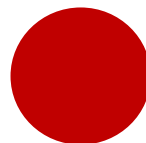
And I hereby direct that you be tried by this Children's Court on the said charge.

Not guilty.

Charge wrong

Dholu.

Kalanagari.



18th September 2024.

Sd/- (13/09/2024)

Additional Sessions Judge.

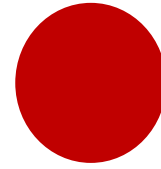
Ch.C No. 5687/2024

Perused the Charge Sheet and the Preliminary Assessment order passed by the Juvenile Justice Board I, Kalanagari dated 2nd August, 2024. Upon reading the contents of the Chargesheet and the Preliminary Assessment Order, I am satisfied that a prima facie case u/s 103 r/w 3(5) of BNS, 2023 is made out against Master Dholu. Thus, I proceed to pass the following order;

Issue Process against Master Dholu.

13th September,2024.

Sd/-



WP Shetty

Additional Sessions Judge,
Children's Court, Kalanagari.

Certified Copy

Chargesheet u/s 193(3) of Bindia Nagarik Suraksha Sanhita, 2023.

1. **First Informant** – Rohit D. Saxena. Intimation of filing of chargesheet given to the Informant and the parents of the victim through a telephone call on 24th July, 2024 @ 13:10hrs
2. **Accused** - (a) Smith D'Souza, (b) Sumit Das. Both apprehended on 8th July, 2024 and forthwith admitted to a bail.
3. **Nature of information** – Registered as CR No. 25/2024 Lakeside Heights Police Station.
4. **Witnesses** – (a) Rohit D. Saxena (b) Paul Fernandes (c) S. Pawar (d) R. Chavan (deceased on 16th July ,2024) (e) Inspector (A. Khanvilkar) (f) Child Welfare Police Officer (K. Shinde)
5. **Outcome of Investigation** – The Accused person Smith D'Souza and Sumit Das in connivance with one another so as to postpone their impending examination, murdered the victim Aarav Patel. The accused in order to execute the killing, stabbed the victim in his abdomen inside the school washroom until the victim collapsed and was found lying on the washroom floor in a pool of blood. Thus, the chargesheet filed against the Accused Persons u/s 103 r/w 3(5) of the Bindia Nyaya Sanhita, 2023.
6. **Documents Relied On-**
 - A. FIR No. 25/2024 registered with Lakeside Heights Police Station.
 - B. Spot Panchnama dated 4th July, 2024.
 - C. Post-mortem Report.
 - D. Certificate u/s 63 of the Bindia Sakshya Adhiniyam, 2023 of the CCTV Footage found from school and the details of footage retrieved in the pen-drive.
 - E. Statement of Paul Fernandez.
 - F. Statement of Sumit Das.

Copy of Chargesheet

Received

Babita D AniD

RD'Souza RachD

Sd/-

A. Khanvilkar

Inspector of Police

Lakeside Heights Police Station, Kalanagari.

FIRST INFORMATION REPORT

(Under Section 173 of The Bindia Nagarik Suraksha Sanhita, 2023)

1. **Dist.:** Kalanagari **P.S:** Lakeside Heights Police Station **Year:** 2024 **F.I.R. No.:** 25/24 **Date:** 04/07/2024
2. (i) ***Act** The Bindia Nyaya Sanhita, 2023 ***Sections** 103 r/w 3(5)
3. (a) ***Occurrence of Offence:** ***Day:** Thursday ***Date:** 04/07/2024 ***Time:** Around 08:40 AM.
 (b) ***Information received at P.S** **Date:** 04/07/2024 **Time:** 08:50
 (c) **General Diary Reference** **Entry No(s)** 29 **Time:** 10.12 AM
4. **Type of information:** Oral.
5. **Place of occurrence:** (a) **Direction and Distance from P.S..... Beat No.....**
 (b) ***Address** Silver Oaks International School, N.M. Joshi Marg, Kalanagri- 400072
 (c) **In case outside the limit of this Police Station, then the name of the P.S.....**
District.....
6. **Complainant/Information:**
 - (a) **Name:** Rohit Saxena.
 - (b) **Father's/ Husband's Name:** Dev Saxena.
 - (c) **Date/ Year of Birth:** 25/10/1992 (d) **Nationality:** INDIAN
 - (e) **Passport No.:** _____ **Date of Issue:** _____ **Place of Issue:** _____
 - (f) **Occupation:** P.E. Teacher.
 - (g) **Address:** B-402, Rustomjee Arcade, S.V. Road, Kalanagari – 400028
7. **Details of known/ suspected/unknown/ accused with full particulars (Attach separate sheet if necessary):**
 - (a) Smith D'Souza – Student
 - (b) Sumit Das – Student
8. **Reasons for delay in reporting by the complainant/ Informant –** NIL
9. **Particulars of properties stolen/ involved (Attach separate sheet if necessary):** N/A
10. ***Total value of the properties stolen/ involved:** N/A
11. ***Inquest Report/ U.D. Case No., if any: -----**
12. **F.I.R. Contents** (Attach separate sheets, if required):

The Informant Mr. Rohit Saxena found the body of the victim, i.e Aarav Patel, collapsed in a pool of blood inside the washroom on the second floor of the school building during the school assembly. The Informant noticed two students, i.e. Smith D'Souza and Sumit Das coming down via staircase from the 1st floor while he was going upstairs. Hence, F.I.R. u/s 103 r/w 3(5) of the Bindia Nyaya Sanhita, 2023 was registered against the suspects.

13. **Action taken:** Since the above report reveals the commission of offence(s) u/s as mentioned at Item No. 2. registered the case and took up the investigation. Since Item No. 7 in the above report shows probability of minor's involvement in the crime, the concerned Officer as per the Juvenile Justice jurisdiction is also intimated.

AK.

Signature of the Officer-in-charge, Police Station

***Name:** A. Khanvilkar

***Rank:** Inspector No. POMH007

14. **Date & time of dispatch to the Court:**

Copy Received.

RohitSX.

Received FIR Copy.

Ruhee

S.Patel

Babita D

AniD

R.D'Souza

RachiD

Statement- Rohit Saxena

I, Rohit D. Saxena residing at B-402, Rustomjee Arcade, S.V. Road, Kalanagri-400028. I am a P.E. teacher at the Silver Oaks International School, Kalanagari. This morning, soon after the assembly, I walked upstairs to the second floor. On my way, I saw two students i.e. Sumit Das and Smith D'Souza on the 1st floor, they were coming down from 2nd floor, while I was climbing the staircase. Thereafter, I entered the washroom, to my shock I saw a disturbing sight of a young student lying motionless and collapsed in a pool of blood. I instantly hurried to the school office and alerted them about the incident. They called for an ambulance immediately.

After the ambulance arrived, we rushed the student, Aarav Patel, to the KK Municipal Hospital, Kalanagari, where on the arrival, the student was declared dead by the Doctor.

RohitSX.
Signature

General Diary Details**State:** Maya Pradesh**District:** Kalanagari**P. S.:** Lakeside Heights Police Station, Kalanagari.

1. **G. D. No.:** 21
2. **G. D. Date & Time:** 04/07/2024 08.50 hrs
3. **G. D. Type:** Other
4. **Entry for (Officer):** A. Khanvilkar
5. **Case type:** ----
6. **G. D. Brief:** A call was received from Silver Oaks International School, Kalanagari informing about a student being fatally injured in washroom of the school. He is being taken to KK Municipal Hospital, Kalanagari via ambulance.
7. **G. D. Subject:** To record
8. **Acts & Sections:**

| Sr. No. | Acts | Sections |
|---------|------|----------|
|---------|------|----------|

Report Printed on: 04/07/2024**Report Printed by:** A. Khanvilkar**Name:** A. Khanvilkar**Rank:** Inspector**Signature of G. D. Entry By:** Sd/-**Name:** A. Khanvilkar**Rank:** Inspector**No:** POMH007

General Diary Details**State:** Maya Pradesh**District:** Kalanagari**P. S.:** Lakeside Heights Police Station, Kalanagari.

1. **G. D. No.:** 29
2. **G. D. Date & Time:** 04/07/2024 10:12 hrs
3. **G. D. Type:** Other
4. **Entry for (Officer):** A. Khanvilkar
5. **Case type:**
6. **G. D. Brief:** Mr. Rohit Saxena came to the Lakeside Heights Police Station, Kalanagari, at 10:12 am to lodge an FIR.
7. **G. D. Subject:** To record
8. **Acts & Sections:**

| Sr. No. | Acts | Sections |
|---------|------|----------|
| | | |

Report Printed on: 04/07/2024**Report Printed by:** A. Khanvilkar**Name:** A. Khanvilkar**Rank:** Inspector**Signature of G. D. Entry By:** Sd/-**Name:** A. Khanvilkar**Rank:** Inspector**No:** POMH007

Spot Panchnama

C.R. No. 25 of 2024 – Lakeside Heights Police Station, Kalanagari.

Panchas:

1. Name: S Pawar.

Occupation: Xerox Shop Owner.

Age: 35 years.

Address: 50, Jumbo Chawl, Pondsides Heights, Kalanagari-401303.

2. Name: R Chavhan.

Occupation: Supermart Owner.

Age: 70 years.

Address: 56, Swami Vatsalya, Harabaug, Kalanagari-400420.

Other Present Individual:

Dr. Anil Gupta, Forensic Expert.

Date – 04/07/2024.

We, the above-mentioned Panchas, were directed by Inspector A. Khanvilkar to attend Silver Oaks International School for Spot Panchnama work. At around 11.10 am, Officer Khanvilkar alongwith a lady constable and another gents constable approached our shops which were near the school. He explained to us the whole situation and briefed us about the CR No. 25/24. He also explained the objective of the Spot Panchnama and asked us to act as Panchas while he would be investigating the crime scene. Upon the said request, we agreed. We reached school at 11:20 am.

Upon reaching the school, we took the staircase to the second floor. There was an elevator, however, it was not working. After ascending to the second floor, we saw a classroom 201, the door of which was closed. The classroom was right

opposite to the staircase. The door of the same directly facing staircase. We were taken to the Boys washroom which was to the right of the staircase. The Boys washroom was situated at the corner of the floor. On the opposite corner of the washroom was the store room. After questioning done by the Officer, school authority said that the room was used by the non-teaching staff for various purposes. Another classroom 202, the door of which was also closed was in the same line as the store room and the stair case.

The door of the washroom was already open. The whole floor had blood stains. Some stains were also present on the wall. Near the wash basin there was a huge pool of blood. One of the persons accompanied with the officer started collecting the blood sample in small glass tubes. We were informed that he was the Forensic Expert Dr. Anil Gupta. The Police Officer looked around the washroom. He checked all the urinals and the toilets. He checked the wash basin. He also checked beneath the washbasin and also inspected the plumbing connected with it. The whole washroom was inspected by him. In a corner adjoining the washbasin and toilet stall, Officer Khanvilkar found a badge. It was a yellow colour badge with the words 'SPORTS COMMITTEE'. Officer Khanvilkar picked it up, examined it and then placed it in a plastic bag. The officer sealed the plastic bag and asked us to sign the sealing label. We did.

We came out of the washroom. The Officer went in the classroom opposite to the staircase. They inquired about the camera that was placed perpendicular to the door. The Officer asked the School authorities whether that CCTV was working. They answered in positive. We went to the School office where monitors were placed and live CCTV footage was already playing. Officer asked the boy sitting at the monitor to play the footage between 8.00 am to 9.00 am from the CCTV present in the class.

We saw the CCTV footage. After about 5 minutes into the footage, we saw a teenage boy going down the staircase. After sometime, we saw a small kid going in the direction of the washroom. Approximately 10 minutes after, two teenage boys came down from the third floor and went to the right-hand side of the staircase. The two boys were seen again in the footage after sometime. They went down the stairs. After sometime, a middle-aged man went in the direction of the washroom. At 8:45 am, the man was seen again running downwards in a hurry. The Officer asked to stop the footage. He then gave the boy a pen-drive. He took it back. We were asked to leave.

The Panchnama commenced at 11:30 am and completed at 12:45 pm. This Panchnama has been duly read out to us and that we have put our signatures at the foot in affirmation thereof.

Kalanagari,

4th July, 2024.

Panchas

1. Sd/- (S. Pavar).

2. Sd/- (R. Chavhan).

Sd/-

A. Khanvilkar

Other Present Individual

Inspector, Lakeside Heights Police Station.

Sd/- (Dr. Anil Gupta).

STATEMENT OF THE PW 2.

NAME: Paul Thomas Fernandes.

AGE: 16 Years and 2 Months.

I am Master Paul Thomas Fernandes, residing at B-2, Bayview Apartments, Lakeside Heights, Kalanagari, Maya Pradesh - 400020. I am a 10th Std. student at Silver Oaks International School. Smith D'souza and Sumit Das are my classmates. Smith and Sumit spent most of their time at school together. They struggled academically and scored below average marks in exams. However, they excelled in sports and often won trophies for our School in sports events. Smith is also part of the school's Sports Committee.

I was not a very close friend of either Smith or Sumit. However, we have been classmates from primary and hence I knew few things about them. Most of the time they would be away for sporting events. However, sometimes when they would be present in the class, they would discuss and argue over video games, T V Shows and comic books. I remember a time when Sumit was yelled at by the teacher for playing games on his phone during lecture. Occasionally, Smith would fight with other students over trivial issues. I did not share many conversations with them. As far as I have talked to them, they seemed a little arrogant but they kept to themselves.

On the day of 4th July 2024, I was late to the school in the morning. Usually, I reach the school by 7.40 AM. However, that day I arrived at 7.50 AM. I went to class to keep my bag and join the morning assembly which starts at 8.00 AM. When I entered the classroom, I saw Sumit and Smith talking with a primary section student who I now know was Aarav. They were talking about some interschool football or basketball competition. I am not very sure which sport they were talking about. It was already 8.00 AM. I was getting late for the assembly. I

left the classroom to join my classmates. Three of them were still in the class when I left.

I have given this statement in a sane mental condition. Everything that I have stated is true to my utmost knowledge.

Sd/-

Date: 6th July,2024.

Master Paul Thomas Fernandes

(Classmate of the Accused)

STATEMENT OF PW 3.

Name: Sumit Das

Age: 15 years 8 months

I am Master Sumit Anirudh Das, residing at A/304, Malabar Apartments, Lakeside Heights, Kalanagari, Maya Pradesh - 400001. I am a 10th Std. student at Silver Oaks International School.

Smith and I have been friends since childhood. We love playing games both outdoor and online games. We used to spend a lot of time together playing video games, watching anime and T V Shows. Crime thrillers is our favourite genre.

From the 4th of July 2024, our mid-term exams were starting. During the study leave, we got into an online first person shooter and combat video game. We spent all of our time on this. To buy skins for knives and guns, we spent our monthly allowances as well. We were not at all prepared for the exams and Smith was very frustrated. He would lash out at me for trivial things.

On 4th July 2024, while going to the school, Smith was very tensed and so was I. We knew we would flunk the exam. Smith's parents had warned him about the same. They had threatened him that they would cut off his allowance and not allow him to come to my house, where we played games. He somehow wanted the exams to get postponed. Then he revealed to me that he was carrying a knife with him. He wanted to enact the same incident as seen on the TV Show that we had recently watched wherein due to the death of a student, the exams were postponed. At first, I was taken aback. However, I too was scared and got tempted by the plan.

We reached the class. When we were about to leave for the assembly, a primary section student approached Smith. Smith knew him. His name was Aarav. He used to live in the same neighbourhood as Smith. He wanted to

discuss about the interschool chess competition. After having the conversation, he left. Before leaving, Smith asked him jokingly whether he was going to the assembly or bunking. Aarav laughed. He said he was going to the washroom and then would join the assembly.

As soon as he left, Smith suggested killing Aarav to execute his plan. We entered the washroom after Aarav. In the washroom, Smith quietly took out the knife from his shirt. I apprehended Aarav and Smith stabbed Aarav once. Upon being stabbed, Aarav screamed loudly in pain but nobody could hear him. I got scared and released him. Smith quickly went and locked the washroom door from the inside. I removed the knife from Aarav's abdomen and stabbed him twice after which he collapsed.

We both then cleaned the knife. Washed our shirts till the blood stains faded. While I cleaned the fingerprints off of the basin tap, Smith did the same for the washroom door. A technique we learnt by watching various crime thrillers. Then, we wore our blazers which we had removed in the store room.

Due to this whole incident, the exam got cancelled. We were sent home. On our way home we discarded the knife and the shirt in the nearby stream. And wore our sports jerseys which we were carrying.

I have given this statement in a sane mental condition. Everything that I have stated is true to my utmost knowledge.

Sd/-

Date: 8th July,2024.

Master Sumit Das.

(Classmate of the Accused)

REPORT OF POST-MORTEM EXAMINATION

NAME OF INSTITUTION: Grand Medical College, KK Municipal Hospital
Premises, Kalanagari.

Post Mortem Report No.: 08/2024

Date: 04/07/2024

Conducted by Doctor: Dr. S S Shah.

Date and time of receipt of the body: 9.35AM

Date and time of commencement of autopsy: 12.15 PM

Time of completion of autopsy: 3.40 PM

CASE PARTICULARS:

1. (a) Name of the deceased as entered in the Police records: Mst. Aarav Shekhar Patel.
(b) S/O, D/O, W/O: Mr Shekhar Patel.
(c) Address: A/21 Gemini Towers, Lakeside Heights, Kalanagari 400001.
2. Age (Approx):8 years; Sex: Male.
3. Body brought by (Name and rank of Police officials)
A. Khanvilkar, Police Inspector of Lakeside Heights Police Station.
4. Identified by (Names of relatives/persons acquainted)
 - (i)Mr Shekhar Patel (father of the deceased)
 - (ii) Mrs. Ruhi Shekhar Patel (mother of the deceased)
 - (iii)Mr. Rohit Saxena (P.E Teacher of the deceased)
5. If death occurred in Hospital:- (particulars as per hospital records)
 - (i)Date and time of admission in hospital: 9.25 AM
 - (ii)Date and time of death in hospital: N/A
 - (iii) Central Registration No. of Hospital: 007/MP/BIN

6. Alleged history

The body of the deceased was found lying on the toilet floor of the deceased' school lying in a pool of blood on the morning of 4th July 2024 at around 8.40AM.

7. **SCHEDULE OF OBSERVATIONS:**

(A) GENERAL

(1) Length: 127 cms.

(2) Weight: 24 kgs.

(3) Physique: (a) lean/**medium**/ obese

(b) Well-built/**average built**/poor built/emaciated

(4) Identification features (if body is identified)

A mole the size of a dot near the lower part of the right ear.

(5) Description of clothes worn- important features:

The deceased was dressed in a school uniform. There was a blue blazer on which a logo of 'Silver Oaks International School' was seen on the pocket of the blazer. The blazer was covered with bloodstains which were not easily visible due to its colour. Beneath the blazer was a white shirt which was soaked in blood and huge red stains were visible on it. The shirt was torn near the abdominal area likely due to the cuts inflicted on the body of the deceased by a sharp object.

(6) Post Mortem changes

Rigor mortis observed in both upper and lower limbs, Pallor +, No icterus, No clubbing.

(7) External appearance:

Eyes were closed and hair color was black

(B) EXTERNAL INJURIES

On external examination, the following ante-mortem injuries are noted:

1. Multiple stabs on the abdomen, all measuring about 3 x 1 cm. Four other stabs on the left side of the abdomen are about 3 x 1 x 3 cm. Whereas the one stab wound on the left side is about 3 x 1 x 4 cm.

(C) INTERNAL EXAMINATION

1. On opening of the abdominal cavity, it was observed that the descending colon and the sigmoid colon of the large intestine were severely affected.

Effects: Peritonitis, Severe Hemorrhage – leading to Hypovolemic shock.

2. In the observation of pancreas, spleen, and stomach, cauda pancreatis was damaged and splenic disruption was observed, and body of the stomach and fundus were intensely affected, respectively.

Effects: Severe internal bleeding, Pancreatic trauma including Enzyme leakage, Hemoperitoneum, Hemorrhagic Gastritis, Gastric content leakage.

3. The lungs exhibited mild pulmonary congestion but otherwise the lungs and heart appeared normal upon examination.

OPINION:

Death caused due to hypovolemic shock and severe internal bleeding by multiple stab wounds in the abdomen from a sharp object.

The time of death of the deceased is approximately 3 hours 30 minutes prior the commencement of autopsy.

SPECIMENS COLLECTED AND HANDED OVER

- i. Viscera
- ii. Clothes
- iii. Photographs

Post Mortem Report in original, dead body, clothing duly sealed (Nos. 335) handed over to police official No. POMH007 of Lakeside Heights Police Station whose signatures are herewith.

Signature: Sd/-

Name of Medical Officer: DR. S S SHAH.

Designation: Chief Medical Officer.

Received by IO:

Signature: Sd/-

Name: A Khanvilkar.

Rank: Police Inspector

Police Station: Lakeside Heights Police Station

Date of Collection: 04/07/2024

Copy Received:

Ruhee

S.Pratel

SOCIAL BACKGROUND REPORT

FIR/DD No: 25 / 24

U/Sections: Section 103 r/w Section3(5) of The Bindia Nyaya Sanhita,2023.

Police Station: Lake Side Heights Police Station.

Date & Time: 08/07/24, 4.30PM

Name of I.O.: A. Khanvilkar

Name of CWPO: K.Shinde

1. Name: Smith D'souza.
2. **Father**/Mother/Guardian's name: Ryan D'souza
3. **Age**/ Date of birth: 16 years and 3 months
4. Address: B/501, Nautica Towers, Lakeside Heights, Kalanagari- 400 001.
5. Religion
 - (i) Hindu (OC/ BC/ SC/ ST)
 - (ii) Muslim/ **Christian**/ Other (pl. specify)
6. Whether the child is differently abled:
 - (i) Hearing Impairment: None
 - (ii) Speech Impairment: None
 - (iii) Physically disabled: None
 - (iv) Mentally disabled: None
 - (v) Others (please specify): None

7. Family Details:

| S.No. | Name and Relationship | Age | Sex | Education | Occupation | Income | Health status | History of Mental Illness (if any) | Addictions (if any) |
|-------|-----------------------|-----|-----|-----------|--------------|----------|---------------|------------------------------------|---------------------|
| 1 | Mr.Ryan D'souza | 42 | M | B.Com | Bank Manager | 15 L.P.A | Diabetes | None | None |
| 2 | Mrs.Rachel D'souza | 38 | F | B.Sc | Housewife | - | Healthy | None | None |

8. Reasons for leaving home: Not Applicable9. Whether there is a history of involvement of family members in offences, if any
 Yes
 No
10. Habits of the child

A

- (i) Smoking
- (ii) Alcohol consumption
- (iii) Drug use (specify)
- (iv) Gambling
- (v) Begging
- (vi) Any other

B

- (i) **Watching TV/movies**
- (ii) **Playing indoor/ outdoor games**
- (iii) Reading books
- (iv) Drawing/painting/acting/singing
- (v) Any other - **Online Games**

11. Employment Details, if any: Not Applicable

12. Details of income utilization:

| | |
|-----|-----------|
| Yes | <u>No</u> |
| Yes | <u>No</u> |

(i) Sent to family to meet family need

(ii) Used by self for:

a) For dress materials Yes/No

b) For gambling Yes/No

c) For alcohol Yes/No

d) For drug Yes/No

e) For smoking Yes/No

f) Savings Yes/No

13. The details of education of the child:

(i) Illiterate

(ii) Studied up to V Standard

(iii) Studied above V Standard but below VIII Standard

(iv) **Studied above VIII Standard but below X Standard**

(v) Studied above X Standard

14. The reason for leaving School: Not Applicable

(i) Failure in the class last studied

(ii) Lack of interest in the school activities

(iii) Indifferent attitude of the teachers

(iv) Peer group influence

(v) To earn and support the family

(vi) Sudden demise of parents

(vii) Bullying in school

(viii) Rigid school atmosphere

(ix) Absenteeism followed by running away from school

(x) No age appropriate school nearby

(xi) Abuse in school

(xii) Humiliation in school

- (xiii) Corporal punishment
- (xiv) Medium of instruction
- (xv) Others (pl. specify)

15. The details of the school in which studied last:

- (i) Corporation/Municipal/Panchayat
- (ii) Government/SC Welfare School/BC Welfare School
- (iii) **Private management**
- (iv) School under NCLP

16. Vocational training, if any: N o n e

17. Majority of the friends are

- (i) Educated
- (ii) Illiterate
- (iii) **The same age group**
- (iv) Older in age
- (v) Younger in age
- (vi) Same sex
- (vii) Opposite sex
- (viii) Addicts
- (ix) With criminal background

18. Whether the child has been subjected to any form of abuse: Yes/**No**

| S.No. | Type of Abuse | Remarks |
|-------|---|---------|
| 1. | Verbal abuse – parents/siblings/employers/ others, (pl. specify) | None |
| 2. | Physical abuse(pl. specify) | None |
| 3. | Sexual abuse parents/siblings/Employers/ others (pl. specify) | None |
| 4. | Others (pl. specify) | None |

19. Whether the child is a victim of any offence: Yes No
20. Whether the child is used by any gangs or adults or group of adults or has been used for drug peddling: Yes No
21. Reason for alleged offence such as parental neglect or over protection, peer group influence etc:
22. Circumstances in which the child was apprehended: On 8th July 2024, the child was apprehended in presence of his parents
23. Details of articles recovered from the child: None
24. Alleged role of the child in the offence:
25. Suggestions of Child Welfare Police Officer: The child should undergo psychological assessment and let the child be provided with rehabilitation for mobile addiction.

Sd/-

K Shinde.

Child Welfare Police Officer

Copy Received:

R D Souza

RachD

**SOCIAL INVESTIGATION REPORT
FOR CHILDREN IN CONFLICT WITH LAW**

SI. No: 424/2024

Submitted to the Juvenile Justice Board I, Kalanagari, Maya Pradesh, Bindia.

Child Welfare Police Officer: K. Shinde

FIR No. – 25/24

Under Sections – 103 r/w 3 (5) of the Bindia Nyaya Sanhita.

Police Station – Lakeside Heights Police Station.

Nature of Offence: Heinous.

1. Name – Smith D’Souza.
2. Age/Date/Year of Birth – 16 years & 3 Months.
3. Sex – Male.
4. Caste – -
5. Religion – Christian.
6. Father’s Name - Mr. Ryan D’Souza.
7. Mother’s Name – Mrs. Rachel D’Souza.
8. Guardian’s Name – -
9. Permanent Address – B/501, Nautica Towers, Lakeside Heights, Kalanagari-400 001.
10. Landmark of the address – Opposite Kalanagari Post Office.
11. Address of last Residence- Same as permanent address.
12. Contact no. of father/mother/family member – 9871XXXXXX
13. Whether the child is differently abled: **Yes/No**
 - i. Hearing Impairment - No
 - ii. Speech Impairment - No
 - iii. Physically disabled - No
 - iv. Mentally disabled – No

v.Others (please specify)

14. Family Details:

| S.No (1) | Name and Relationship (2) | Age (3) | Sex (4) | Education (5) | Occupation (6) | Income (7) | Health status (8) | History of Mental Illness (if any) (9) | Addictions (if any) (10) |
|-------------|------------------------------|------------|------------|------------------|-------------------|---------------|----------------------|---|-----------------------------|
| 1. | Mr. Ryan D'Souza | 42 | M | B.Com | Bank Manager | 15 l.p.a | Diabetes | None | None |
| 2. | Mrs. Rachel D'Souza. | 38 | F | B.Com | Homemaker | — | Healthy | None | None |

15. If the child or person is married, name, age and details of spouse and children: - N/A

16. Relationship among the family members:

| | |
|---|---|
| i. Father & mother | <u>Cordial</u> / Non cordial/ Not known |
| ii. Father & child | <u>Cordial</u> / Non cordial/ Not known |
| iii. Mother & child | <u>Cordial</u> / Non cordial/ Not known |
| iv. Father & siblings | <u>Cordial</u> / Non cordial/ Not known |
| v. Mother & siblings | <u>Cordial</u> / Non cordial/ Not known |
| vi. Child & siblings | <u>Cordial</u> / Non cordial/ Not known |
| vii. Child & grandparents (paternal/maternal) | <u>Cordial</u> / Non cordial/ Not known |

17. History of involvement of family members in offences, if any:

| S. No. | Relationship | Nature of Crime | Legal status of the case | Arrest if any made | Period of confinement | Punishment Awarded |
|--------|------------------------------------|-----------------|--------------------------|--------------------|-----------------------|--------------------|
| 1) | Father | None | None | None | None | None |
| 2) | Stepfather | None | None | None | None | None |
| 3) | Mother | None | None | None | None | None |
| 4) | Stepmother | None | None | None | None | None |
| 5) | Brother | None | None | None | None | None |
| 6) | Sister | None | None | None | None | None |
| 7) | Other (uncle/ aunty/ grandparents) | None | None | None | None | None |

18. Attitude towards religion of child and family – Religious.

19. Present living conditions – Adequate for proper upbringing of the child.

20. (i) Habits of the child (Tick as applicable)

A

- (a) Smoking
- (b) Alcohol consumption
- (c) Drug use (specify)
- (d) Gambling
- (e) Begging

B

- (g) Watching TV/movies ✓
- (h) Playing indoor/ outdoor games ✓
- (i) Reading books
- (j) Religious activities
- (k) Drawing/painting/acting/singing

(f) Any other (l) Any other

ii. Extra-curricular interests – Sports and Athletics.

ii. Outstanding characteristics and personality traits –The child is impulsive in nature, only responds to threats, is skilled in online gameplay and loves playing sports.

22. Child’s opinion/reaction towards discipline in the home – The Child does not respond to the Parents methods of discipline, is unbothered by the parent’s concern for the child’s future. The child only responds to threats involving forfeiture of monthly allowance, gaming equipment and other such things.

23. Employment Details of the child, if any – None

24. Details of income utilization and manner of income utilization – N/A.

25. Work record (reasons for leaving vocational interests, attitude towards job or employers) – N/A

26. The details of education of the child:

i. Illiterate

ii. Studied up to V Standard

iii. Studied above V Standard but below VIII Standard

iv. **Studied above VIII Standard but below X Standard**

v. Studied above X Standard

27. Attitude of class mates towards the child – Classmates have a friendly approach towards the child. Classmates as well as juniors have also trusted the child with important position in the School Committee.

28. Attitude of teachers and classmates towards the child: The teachers have a very supportive attitude towards the child. The teachers are considerate towards the child given the fact that the child is weak in academics. At times teachers have said to have felt the necessity to be strict towards the child as the child has an unbothered attitude towards studying and was at times not paying attention in class. However, the child doesn't cause any trouble at school.

29. The reason for leaving School: (tick **Yes/No** as applicable)

- i. Failure in the class last studied – No
- ii. Lack of interest in the school activities – No
- iii. Indifferent attitude of the teachers – No
- iv. Peer group influence – No
- v. To earn and support the family – No
- vi. Sudden demise of parents – No
- vii. Bullying in school – No
- viii. Rigid school atmosphere – No
- ix. Absenteeism followed by running away from school – No
- x. There is no age-appropriate school nearby – No
- xi. Abuse in school – No
- xii. Humiliation in school – No
- xiii. Corporal punishment – No
- xiv. Medium of instruction – No
- xv. Others (pl. specify) – None

30. The details of the school in which studied last:

- i. Corporation/Municipal/Panchayat
- ii. Government/SC Welfare School/BC Welfare School
- iii. **Private management**

iv. School under NCLP

31. Vocational training, if any – -

32. Majority of the friends are-

i. Educated

ii. Illiterate

iii. The same age group

iv. Older in age

v. Younger in age

vi. Same sex

vii. Opposite sex

viii. Addicts

ix. With criminal background

33. Attitude of the child towards friends – The child is mostly friendly towards his peers. However, the child is found to be selective in making friends. The child is only close to children who share similar interests as him viz. gaming, sports, love for crime literature. The child also tends to showcase aggressive behaviour in case of conflicts with other peers.

34. Attitude of friends towards the child – The child's close friends have good relations with him, play games with him and have friendly attitude towards him.

35. Observations of neighbours towards the child – The neighbours of the child have observed that the child is always engrossed in his mobile. Sometimes they have just seen him walking the building corridors while throwing imaginary punches in the air and acting like a superhero or a cartoon character. They have also

observed the child playing various kinds of sports in the building complex with other kids.

36. Observations about neighborhood (to assess the influence of neighborhood on the child) – The neighborhood in which the child resides is a good neighborhood which is majorly a residential area. It is an area where mostly a lot of families including children and elderly reside. The crime rate in the neighborhood is very low. There are a lot of recreational spaces such as yoga centre, gym, sports club in and around the area.

37. Whether the child has been subjected to any form of abuse, if applicable - No

| S. No. | Type of Abuse | Remarks |
|--------|--|---------|
| 1. | Verbal abuse - parents/ siblings/ employers/ others, (pl. specify) | None |
| 2. | Physical abuse (pl. specify) | None |
| 3. | Sexual abuse - parents/ siblings/ employers/ others, (pl. specify) | None |
| 4. | Others (pl. specify) | None |

38. Whether the child is a victim of any offence: No

39. Whether the child is used by any gangs or adults or group of adults or has been used for drug peddling: No

40. Does the child have tendency to run away from home, give details if any -No

41. Circumstances of apprehension of the child – On 8th July 2024, the child was apprehended in presence of his parents and was produced before the Juvenile Justice Board I, Kalanagari.

42. Alleged role of the child in the offence – Alleged Killer of Aarav Patel.

43. Reason for alleged offence:

- i. Parental neglect
- ii. Parental overprotection
- iii. Parents criminal behaviour
- iv. Parents influence (negative)
- v. Peer group influence
- vi. Bad habits (to buy drugs/alcohol)
- vii. Others – Adverse negative impact of engaging in violent video games, anime and other entertainment of the genre of violence.**

44. Whether the child has been apprehended earlier for any offence, if yes give details including stay in child care institution – No.
45. History and individual care plan, if any: None.
46. Physical appearance of the child: A strong and stout child, healthy and well-nourished. Weighs around 68 kgs and is about 5 foot 4 inches tall. The child needs glasses to correct his vision. Is found otherwise physically healthy.
47. Health condition of the child – Healthy, with no known ailments.
48. Mental condition of the child – The child hasn't been diagnosed with any mental disorders. However, in the recent past, the child looked like he was under constant pressure. He was feeling nervous about somethings. Overall, the child tends to engage in adrenaline boosting activities including but not limited to online thriller games, watching suspense action content.

49. Any other remark – None.

RESULT OF INQUIRY

- 1) Emotional factors – The child struggles with emotional stability. We have found that violent video games have increased aggressive cognition, emotion, and behaviour and decreased the child's empathy, which in turn has negatively impacted child's behaviour. The constant state of worry faced by the child might be an adverse effect of the same.
- 2) Physical condition – Well Built Physique and a healthy condition with o ailments.
- 3) Intelligence – The child is found to be fairly and adequately intelligent and has a fair amount of unused potential. Even though the child is seen as an average performer in academics, his intelligence is at par with that of an above average student.
- 4) Social and economic factors – None
- 5) Suggestive causes of the problems - The child might be constantly turning to video games to feel a sense of productivity and achievement which he lacks in his academics. This constant exposure to violent content consumed by the child, has desensitised the child towards violent and aggressive behaviours. The child might be incorporating virtual reality in to actual reality by viewing violence as a solution to problems.
- 6) Analysis of the case, including reasons/contributing factors for the offence – The child has never been seen engaging into violent behaviours before. However, in the recent past, aggressive and strange social behaviour was normalised for the child. Threats given by the parents to the child regarding good scores in exams created unproportionate pressure on the child given

his unpreparedness and refusal to study. This threat contributed in intensifying the already serious problem of his grades. The child is getting conditioned to view violence as a solution to all problems and hence must have resorted to the same to get out of the exam pressure i.e a problem in his life. In addition to this, due to long exposure to electronic, the child has trouble falling asleep and has resulted into the child suffering with insomnia which in turn increases anxiety levels and irritation and mood fluctuations.

- 7) Opinion of experts consulted – Expert’s opined that the child needs to be referred to psychotherapy immediately to help him bring back to the reality and out of the virtual reality. The child faces intense emotions of failure, aggression, indifference towards violence etc. If the child responds well to the therapy, he also might have chances of being rehabilitated into the society.
- 8) Recommendation regarding rehabilitation by Probation Officer/Child Welfare Officer – The Child is recommended to attend therapy as prescribed by the experts and should be kept away from all electronic media until otherwise is advised by the therapist.

Sd/-
K. Shinde
Child Welfare Police Officer

Copy Received:

R D Souza

RachD

CERTIFICATE

U/s 63 of the BIndia Sakshya Adhiniyam, 2023

1. I certify that that the CCTV camera whose footage has been taken, was operated by me.
2. I further certify that for the relevant period of time, the said CCTV was operating properly and there is no distortion in the accuracy of its contents.
3. I have personally taken the CCTV footage from the recorded footage and given it to the Officer.
4. I certify that during the said period, information contained in the electronic record data has not been altered or tampered.
5. I certify that throughout the material part of the said period, the CCTV was operating properly.
6. I further certify that the information contained in the electronic record has been derived from Principal's Office in the ordinary course of the said activities.

Date: 04.07.2024

Arnav Desai

**(CCTV Camera Operator, Silver Oaks
International School)**

ANNEXURE I

❖ Contents of the Pen-drive as provided to the Court:

| CCTV Footage from classroom 201 as on 04 th July 2024. Time: 8.00 am to 9.00 am. | | |
|--|---|----------|
| Sr No. | Content | Time |
| 1. | Paul Fernandes walks down the third-floor staircase and then proceeds to take the staircase to the first floor. | 08.02 am |
| 2. | Aarav Patel was seen coming down from third-floor and going in the direction of the Washroom. | 8.07 am |
| 3. | Smith and Sumit are seen coming down from the third-floor staircase and going in the western direction. | 8.11 am |
| 4. | Smith and Sumit are seen walking from the north-western direction of the floor towards the staircase. They are seen taking the first-floor staircase. | 8.25 am |
| 5. | Rohit Saxena is seen arriving on the second floor via the first-floor staircase, arrives on the second floor and starts walking towards the south-western direction of the floor. | 8.40 am |

BEFORE JUVENILE JUSTICE BOARD I, KALANAGARI.

Production Order 987 of 2024.

(JJ CASE No. 76 of 2024)

State of Maya Pradesh

...Prosecution

Versus

1. Mst. 'Dholu'

...Child in conflict with law

2. Mst. 'Bholu'

...Child in conflict with law

1. On 8th July, 2024, the two children were apprehended by the Child Welfare Police Officer ('CWPO'), K Shinde, for committing the offence u/s 103 r/w 3(5) of Bindia Nyaya Sanhita, 2023.

2. As per the Juvenile Justice Act, 2015 and Model Rules, 2016, the Child in Conflict with Law ('CCL') shall be produced before a Juvenile Justice Board.

3. The two children who are in conflict with law, one aged around 15 years and the other around 16 years, have been produced before us.

4. The board is satisfied that they have been produced within 24 hours of their apprehension. The CCL have not stated any mistreatment or coercion when they were apprehended or when they were kept at the safety home by any officer or welfare worker.

5. When questioned by us about the crime, the older one has denied any involvement while the younger one has been silent.

6. Each Counsel on behalf of the two children have put forth an application u/s 74 of the Act, 2015 for masking of their identity. The said application is accepted. Accordingly, the younger one in all proceedings hereinafter shall be referred to as 'Master Bholu' and the older one as 'Master Dholu' respectively.

7. As one of the children in conflict with law is aged over 16, as per statutory requirement of the Act, 2015 he shall undergo a preliminary

assessment. As the other child is below the age of 16, he falls within the ambit of Section 14 of the Act, 2015. Hence, the Board is of the opinion that post this order, all proceedings shall be carried out separately for the two CCL.

8. Ld. Counsel for Master Dholu has filed a bail application u/s 12 of the Act, 2015 before this Board. The application shall be heard on 15th July, 2024. For the time being, both CCL shall be placed in the safety home and all due care for their safety and comfort as per the Act, 2015 and Rules, 2016 shall be taken.

Date: 09/07/2024.

(Signature)
Principal Magistrate
Juvenile Justice Board, Kalanagari.

(Dr. Hari Shyam)
Member I
Juvenile Justice Board, Kalanagari.

(Smt. Rashi Khanna)
Member II
Juvenile Justice Board, Kalanagari.

माया प्रदेश सरकार
GOVERNMENT OF MAYA PRADESH
आरोग्य विभाग
HEALTH DEPARTMENT
कालानगरी महानगरपालिका
MUNICIPAL CORPORATION OF KALANAGARI

BIRTH CERTIFICATE

(Issued under section 12/17 of the Registration of Births & Deaths Act, 1969 and Rule 8/13 of the Maya Pradesh Registration of Births and Deaths Rules, 2000.)

This is to certify that the following information has been taken from the original records of the birth which is the register for Municipal Corporation of Ward HE of District Kalanagari of Maya Pradesh State.

Name of Child : SMITH D'SOUZA **Sex** : MALE

Date of Birth : 28.03.2008 **Place of Birth** : KALANAGARI

Name of Mother : Mrs. RACHEL D'SOUZA **Name of Father**: Mr. RYAN D'SOUZA

Address of Present at the time of birth of the child :
B/501, Nautica Towers,
Lakeside Heights,
Kalanagari - 400 001.

Permanent Address of Parents:
B/501, Nautica Towers,
Lakeside Heights,
Kalanagari - 400 001.

Registration No. :968312 **Date of Registration:** 2.04.2008

Signature of the Issuing Authority: Sd/-
Address of the issuing authority:

Remark if any :

Date of Issue : 1.06.2008

Seal

Ensure registration of every birth and death

Note: The authenticity of this certificate must be verified from our website [http:// port](http://port)

माया प्रदेश सरकार

GOVERNMENT OF MAYA PRADESH

आरोग्य विभाग

HEALTH DEPARTMENT

कालानगरी महानगरपालिका

MUNICIPALCORPORATION OF KALANAGARI

BIRTH CERTIFICATE

(Issued under section 12/17 of the Registration of Births & Deaths Act, 1969 and Rule 8/13 of the Maya Pradesh Registration of Births and Deaths Rules, 2000.)

This is to certify that the following information has been taken from the original records of the birth which is the register for Municipal Corporation of Ward HE of District Kalanagari of Maya Pradesh State.

| | | | |
|---|---|---|--|
| Name of Child | : SUMIT DAS | Sex | : MALE |
| Date of Birth | :11.09.2008 | Place of Birth | : KALANAGARI |
| Name of Mother | :Mrs. BABITA DAS | Name of Father: | Mr. ANIRUDH DAS |
| Address of Present at the time of birth of the child | : A/304, Malabar Apartments, Lakeside Heights, Kalanagari - 400 001, Opposite Kalanagari Post Office (landmark) | Permanent Address of Parents: | A/304, Malabar Apartments, Lakeside Heights, Kalanagari - 400 001, Opposite Kalanagari Post office (landmark) |
| Registration No. | :380265 | Date of Registration: | 15.09.2008 |
| Remark if any | : | Signature of the Issuing Authority: Sd/- | |
| Date of Issue | : 18.11.2009 | Address of the issuing authority: | |

Seal

Ensure registration of every birth and death

Note: The authenticity of this certificate must be verified from our website [http:// port](http://port)

BEFORE JUVENILE JUSTICE BOARD I, KALANAGARI.

BAIL APPLICATION NO. 455 OF 2024

(JJ CASE No. 76 of 2024)

State of Maya Pradesh

...Prosecution

Versus

Mst. 'Dholu'

...Child in conflict with law

1. Counsel for the Child in Conflict with law ('CCL') has preferred a bail application u/s 12 of the Juvenile Justice Act, 2015.

2. The State has objected to the same on grounds of severity of the crime alleged to be committed by the CCL.

3. This submission is rejected by the Board. It is an established principle that matters involving juveniles are treated differently than that of crimes committed by adults. Bail is the rule in all circumstances except when granting bail would result in raising questions over CCL's safety or if there is a possibility that the CCL may get in company with other criminals if given bail.

4. Both these circumstances are not present in the instant matter. The Board is satisfied that the parents of the CCL who are present today will take good care of him and have given assurance that he will not be involved with any bad company when left on bail.

5. Accordingly, the Bail is granted till the preliminary assessment hearing which is to take place on 2nd August, 2024.

Date: 15/07/2024.

(Signature)

Principal Magistrate

Juvenile Justice Board, Kalanagari.

(Dr. Hari Shyam)

Member I

Juvenile Justice Board, Kalanagari.

(Smt. Rashi Khanna)

Member II

Juvenile Justice Board, Kalanagari.

BEFORE JUVENILE JUSTICE BOARD I, KALANAGARI.**ORDER NO. 827 OF 2024****IN****PRELIMINARY ASSESSMENT NO. 96 OF 2024****(JJ CASE No. 76 of 2024)****State of Maya Pradesh****...Prosecution****Versus****Mst. 'Dholu'****...Child in conflict with law**

1. An unfortunate incident took place on 04th July 2024 in an institution in Kalanagari where an 8-year-old boy was found in the toilet lying in a pool of blood with multiple stabs on the body at about 8.40 am in the morning. He was rushed to the hospital but was declared dead upon arrival. Subsequently, a FIR bearing No. 25/2024 was registered at the Lakeside Heights Police Station. In consonance with provisions of Section 74 of the Juvenile Justice Act (short "**2015 Act**"), we have used the names Mst. Bholu aged about 15 years 9 months 23 days (short "**minor 1**") and Mst. Dholu aged about 16 years 3 months 6 days (short "**minor 2**")¹. The age verification for the same has been conducted via the birth certificate of the CCLs obtained from the school records. Based on the findings of the investigation arrived upon by conducting a spot panchanama, retrieving CCTV footage from the crime scene, taking statements of the accused and the one other witness, minor 1 and minor 2 were apprehended by the Child Welfare Police Officer ("**CWPO**") on 08th July 2024. On the next day, they were produced before this board and released on bail as per Order dated 15th July 2024.
2. Minor 2 being aged 16 years 3 months 6 days at the time of the commission of the crime, fell within the definition of child in conflict with law (short "**CCL**") as per Sec 2 (13) of the 2015 Act. The crime in question fell within the definition of "heinous offence" as per Section 2 (33) of the 2015 Act. Section 15 of the 2015 Act clearly lays down that a Juvenile Justice Board is legally bound to conduct a Preliminary Assessment in "heinous offence" with regard to mental and physical capacity of child in conflict with law to commit an offence if he has completed age of 16 years.

¹ The ages of the minors are as they stood on the date of the offence.

3. Though there are no guidelines regarding preliminary assessment stipulated under Section 15 of the 2015 Act, Draft Model Rules, 2016, under the 2015 Act can be used as light house. These rules clearly lay down that the objective of the preliminary assessment will be to evaluate the role of the child in conflict with law in the alleged offence as well as his mental condition and background.
4. One of the members presiding over this Board, Dr Hari Shyam (Member I), has conducted the psychological assessment of the CCL. The occasion for this arose due to non-availability of empaneled psychologists who usually assist this Board. For the sake of clarity, it is specified that out of the three psychologists empaneled with this Board, one has gone to an academic conference abroad and the one other has contracted an illness due to which they will unable to discharge their duties. The third psychologist is already assisting this Board in other matters, hence, to complete the preliminary assessment within the prescribed time and keeping in mind the welfare of the CCL, one of the members amongst us has conducted the psychological assessment. The member so doing is a clinical child psychiatrist with an experience of over 25 years.
5. The member has conducted the psychological assessment according to Stanford-Binet Intelligence Test which showed that the average Intelligent Quotient (IQ) of the CCL was 96. The average range lies between 90-109 for the test so conducted. Copy of same along with Social Investigation Report (“SIR”) given to the CCL’s advocate and parents. Also, a Rorschach Inkblot Test was done which showed proper mental faculties. The test revealed that the child is creative. However, it also revealed that he tends to get tunnel visioned and impulsive whenever faced with unfavourable situations. The test also suggested that he has anger issues and is very well capable of engaging in violence.
6. At this juncture, it is desirable to mention that the CCL was receiving quality education at a private institution and was also active in extra-curricular of the school. From the material on record, it is also noted that the CCL was active member of the school sports committee. To say such a child lacked the mental faculties to understand the consequences of his actions would be a fallacious argument. The CCL’s IQ level shows that he is adequately intelligent so it cannot be said that he did not know the consequences of the act alleged to be committed by him. It is not the case of the CCL that he was a drug addict, or he has suicidal tendency, or that he felt compelled to commit crimes under extreme mental trauma or he has a history of abuse and exploitation or he had done the offence for his survival or he had been himself remained

as a victim of any offence or he suffered from any mental illness. It is again pertinent to be mentioned here that the child in conflict with law or his counsel failed to pin point anything during preliminary assessment that the child in conflict with law was not physically and mentally fit to commit the offences and he had no idea of his consequences.

7. One of the members of this Board have personally interacted with the CCL in a child friendly manner. This interaction revealed that the CCL possessed no physical or mental impediments. During the interaction with the CCL, it didn't seem that he is childlike. His intelligence is average, though not reflected by his grades. Hence, he seems both physically and mentally capable of committing the offence and understanding the consequences of his action.
8. Both the conditions required under Section 15 of the 2015 Act are fulfilled as such the Board undertook the exercise of making the Preliminary Assessment. In that process, the Board itself conducted a psychological assessment, also considered the Social Investigation Report as also other material placed before it and hence the following order:

ORDER:

1. The assessment so conducted reveals CCL to be mature enough to understand the consequences of his action. He is fully fit both physically and mentally. Hence, as per Section 15 r/w Section 18 (3) of the 2015 Act this case is transferred to the Hon'ble Children's Court, Kalanagari. The CCL shall be tried accordingly in the Hon'ble Children's Court as they deem fit. All the papers and records pertaining to the JJ Case No. 76 of 2024 are transferred to the same.

Date: 02/08/2024.

(Signature)
Principal Magistrate
Juvenile Justice Board, Kalanagari.

(Dr. Hari Shyam)
Member I
Juvenile Justice Board, Kalanagari.

(Smt. Rashi Khanna)
Member II
Juvenile Justice Board, Kalanagari.

Stanford-Binet IQ Test Results

Examiner Name: Dr. Hari Shyam

Examinee Name: Smith D'souza

Date of Testing: 23rd July, 2024.

Testing Location: Safety Home, Kalanagari.

Domain Scores:

1. Verbal Reasoning

Raw Score: 22/50 Scaled Score: 74

2. Quantitative Reasoning

Raw Score: 26/50 Scaled Score: 78

3. Abstract/Visual Reasoning

Raw Score: 38/50 Scaled Score: 90

4. Working Memory

Raw Score: 34/50 Scaled Score: 88

Total Raw Score: 120/200

Composite Scaled Score: 330

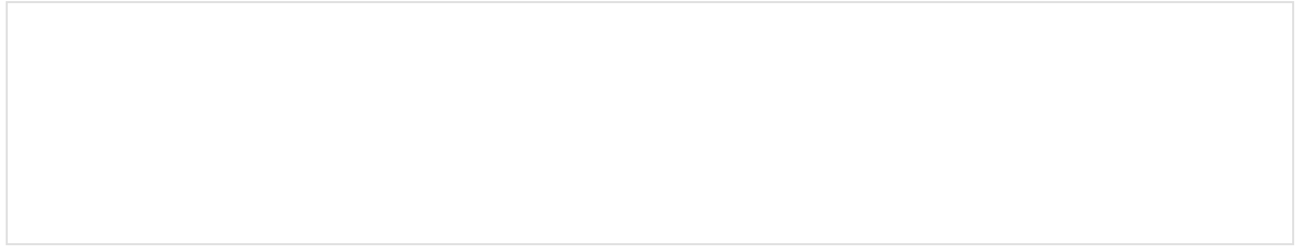
IQ Score: 96

Interpretation:

| | |
|----------------------|--------------|
| Below Average | (IQ < 90) |
| Average | (IQ 90-109) |
| Above Average | (IQ 110-129) |
| Gifted | (IQ 130-144) |
| Highly Gifted | (IQ 145+) |

Comments and Observations:

The Examinee possesses average intelligence for his age. His verbal and quantitative reasoning is below average. However, his working memory is quite good and abstract/visual reasoning is the strongest aspect. This quantitative shows that the examinee may be weak in studies but that has no bearing on his intelligence or aptitude.

Recommendations and Next Steps:

Examiner Signature: Sd/-

Date: 29th July, 2024.

Received Copy.

RD Souza

RachD

IN THE CHILDREN'S COURT AT KALANAGAR

Criminal Appeal No.789/2024

Master Dholu through his guardian..... ...Appellant

Versus

State of Maya Pradesh..... Respondent

IN

Ch.C No. 5687/2024

State of Maya Pradesh..... Prosecution

Versus

Master Dholu.....
(CCL)

Child in Conflict With Law

Advocate _____ on behalf of the Appellant.

Advocate _____ on behalf of the Respondents.

Date: 05th September,2024.

Judge : WP Shetty
(Additional Sessions Judge.)

1. The Appellants have approached this court u/s 101 of the Juvenile Justice Act, 2015 (hereinafter, 'the Act,2015'). On 2nd August, 2024, the Juvenile Justice Board I, Kalanagari passed an Order (Preliminary Assessment No.96/2024) wherein after conducting the Preliminary Assessment (as per section 15 of the Act,2015), the Board was of the opinion that the Child in Conflict with Law (CCL), Master 'Dholu' who was aged 16 years 3 months on the date of commission of offence according to the Birth Certificate produced before me, shall be tried as an adult. The matter was accordingly transferred to this Court as per section 18 of the Act,2015.

2. Section 101 of the Act, 2015 :-

101. (1) Subject to the provisions of this Act, any person aggrieved by an order made by the Committee or the Board under this Act may, within thirty days from the date of such order, prefer an

appeal to the Children's Court, except for decisions by the Committee related to Foster Care and Sponsorship After Care for which the appeal shall lie with the District Magistrate:

Provided that the Court of Sessions, or the District Magistrate, as the case may be, may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time and such appeal shall be decided within a period of thirty days.

(2) An appeal shall lie against an order of the Board passed after making the preliminary assessment into a heinous offence under section 15 of the Act, before the Court of Sessions and the Court may, while deciding the appeal, take the assistance of experienced psychologists and medical specialists other than those whose assistance has been obtained by the Board in passing the order under the said section.

(3) No appeal shall lie from,—

(a) any order of acquittal made by the Board in respect of a child alleged to have committed an offence other than the heinous offence by a child who has completed or is above the age of sixteen years; or

(b) any order made by a Committee in respect of finding that a person is not a child in need of care and protection.

(4) No second appeal shall lie from any order of the Court of Session, passed in appeal under this section.

(5) Any person aggrieved by an order of the Children's Court may file an appeal before the High Court in accordance with the procedure specified in the Code of Criminal Procedure, 1973.

3. This Appeal therefore is only in regards to the Preliminary Assessment as this Court cannot act as a fact-finding body in the instant case. Hence, no questions as to the facts shall be addressed by this court. They will have to be raised during the trial.

4. With regards to the Preliminary Assessment, the appellants have questioned the validity of the psychological assessment conducted by the Board. The Board has not taken assistance of any psychologists for conducting the assessment. Reasons for doing so have been provided as follows by the board:-

4. "One of the members presiding over this Board, Dr Hari Shyam (Member I), has conducted the psychological assessment of the CCL. The occasion for this arose due to non-availability of empaneled psychologists who usually assist this Board. For the sake of clarity, it is specified that out of the three psychologists empaneled with this Board, one has gone to an academic conference abroad and the one other has contracted an illness due to which they will unable to discharge their duties. The third psychologist is already assisting this Board in other matters, hence, to complete the preliminary assessment within the prescribed time and keeping in mind the welfare of the CCL, one of the members amongst us has conducted the psychological assessment. The member so doing is a clinical child psychiatrist with an experience of over 25 years."

5. The Appellant has conducted this to be in violation of provisions of the Act, 2015 and the Model Rules, 2016. However, the Respondents have negated this argument by

citing the judgement of the Apex Court in the judgement of ‘CBI v/s Bholu’ (Criminal Appeal No.951/2022).

6. This court finds substance in the above-mentioned judgement cited by the Respondents. Relevant paras of the same are as follows:-

“ 76. As already noticed, the Board consists of three members, one is a Judicial Officer First Class and two social workers, one being a woman. The social worker appointed as a member could be having a degree in child psychology or psychiatry but it is not necessary. As such, the constitution of the Board may not necessarily be having an expert child psychologist. It is for all the above reasons that it has been provided not only in sections 15 and 101(2) but also under the Model Rules that assistance may be taken from an expert psychologist. Having regard to the framework of the Act, 2015 and the Model Rules and the purpose of preliminary assessment in terms of Section 15 as also looking to the varied composition of the Board, we are of the view that where the Board is not comprising of a practicing professional with a degree in child psychology or child psychiatry, the expression “may” in the proviso to section 15(1) would operate in mandatory form and the Board would be obliged to take assistance of experienced psychologists or psychosocial workers or other experts. However, in case the Board comprises of at least one such member, who has been a practicing professional with a degree in child psychology or child psychiatry, the Board may take such assistance as may be considered proper by it; and in case the Board chooses not to take such assistance, it would be required of the Board to state specific reasons therefor.”

7. After considering this judgement, it becomes evident that the issues raised by the petitioners have no legal substance. They have also raised questions as to the methodology used by the learned member of the Board. This court finds no reason so as to question the methodology adopted by a trained, experienced and specialist in clinical psychiatry.

8. This court finds no error in the Preliminary Assessment conducted by the board. I have also gone through the case papers, the Social Investigation Report submitted by the Child Welfare Police Officer and the Psychological Test conducted by the learned Board Member. The appeal is accordingly not allowed. The CCL shall be tried as an adult as per section 15 of the Act, 2015.

WP Shetty

(Additional Sessions Judge,
Children’s Court, Kalanagari.)