

**IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION**

WRIT PETITION (CRL.) NO(S). 514 OF 2025

SUNDER @ SURENDRA PETITIONER(S)

VERSUS

STATE OF UTTAR PRADESH RESPONDENT(S)

O R D E R

- 1.** Heard.
- 2.** Briefly stated, facts relevant and necessary for appreciation of the issues raised in the instant writ petition filed under Article 32 of the Constitution of India are as follows.
- 3.** The petitioner, along with co-accused Balvir, Veersain, and Virendra, was tried by the learned Additional District & Sessions Judge No. 9, Meerut¹ in Sessions Trial No. 335 of 1983. *Vide* judgment dated 31st January, 1989, the learned trial Court convicted the petitioner and the co-accused for

¹ Hereinafter, referred to as 'trial Court'.

offences punishable under Sections 302/34 and 307/34 of the Indian Penal Code, 1860 and sentenced them to undergo life imprisonment for both the offences. The sentences so awarded were directed to run concurrently.

4. The petitioner assailed the said judgment of conviction by filing a criminal appeal bearing No. 289 of 1989 before the High Court of Judicature at Allahabad, which was rejected *vide* judgment and order dated 30th September, 2022.

5. Being aggrieved, the petitioner approached this Court by way of Special Leave Petition (Criminal) No. 12964 of 2023, which came to be dismissed *vide* order dated 6th October, 2023.

6. Now, through the instant writ petition under Article 32 of the Constitution of India, the petitioner has raised the plea of juvenility for the first time. In order to support the plea of being a juvenile at the time of the incident, the petitioner has annexed the copy of the scholar register cum transfer certificate issued by the school dated 12th February, 1983 and the birth certificate dated 19th April, 2024 issued by the Gram Panchayat, Makarandpur Ogti. Both these

documents record the date of birth of the petitioner to be 1st February, 1968.

7. The crime for which the petitioner was convicted took place on 7th February, 1983. Going by the aforesaid dates, the petitioner claims himself to be around 15 years of age on the date of the commission of offence and has prayed for being extended the benefit of the Juvenile Justice Act, 2015.²

8. In support of his plea, the petitioner placed reliance on the judgments of this Court in the cases of ***Abuzar Hossain @ Gulam Hossain v. State of West Bengal***³ and ***Pramila v. State of Chhattisgarh***⁴.

9. Notice was issued, pursuant to which the respondent-State has filed a counter affidavit contesting the claim of juvenility raised by the petitioner for the first time after nearly 46 years of the incident. However, regarding the documents relied upon by the petitioner to claim the benefit of the JJ Act, the State has in its counter affidavit responded as below: -

² Hereinafter, referred to as the 'JJ Act'

³ (2012) 10 SCC 489.

⁴ 2024 INSC 50.

“8. That it is respectfully submitted that the petitioner/convict claims to have been 15 years of age at the time of the alleged commission of the offence on 07.02.1983 and, in support thereof, has placed reliance on certain documents, including a birth certificate and school records such as the student register, transfer certificate, school progress reports, character certificate, and school leaving certificate, all of which purportedly record the petitioner's date of birth as 01.02.1968.

It is submitted that the very foundation of the petitioner's claim of juvenility rests entirely upon appreciation, verification, and adjudication of these documentary records, which necessarily requires a factual inquiry and evidentiary examination in accordance with the procedure prescribed under the Juvenile Justice Act. That such an exercise may not be proper in the eye of the law under the extraordinary jurisdiction of this Hon'ble Court under Article 32 of the Constitution”

10. The respondent-State has objected to the prayer made in this writ petition on the ground that the aforesaid plea of juvenility ought to have been raised before the Juvenile Justice Board or the trial Court or the appellate Court, as the case may be, at the appropriate stage and that the petitioner cannot be allowed to directly approach this Court by way of the instant writ petition under Article 32 of the Constitution of India, after the rejection of his

appeal(s) and the special leave petition, for raising this plea and that too at a highly belated stage.

11. We have given our thoughtful consideration to the submission raised at bar and have gone through the material available on record.

12. This Court in the case of ***Rahul Kumar Yadav v. State of Bihar***⁵, examined the proviso to Section 9(2) of the JJ Act, and held that the plea of juvenility may be raised before any Court and it shall be recognized at any stage, even after the final disposal of the case. This Court observed as follows: -

“10. Indisputably, during the pendency of the appeal before the Patna High Court, the Juvenile Justice (Care and Protection) Act, 2015 (hereinafter being referred to as the ‘JJ Act 2015’) had come into force which provides a comprehensive mechanism to consider the prayer of juvenility raised on behalf of an accused claiming to be a child on the date of the commission of the offence. **The proviso to Section 9(2) of the JJ Act, 2015 clearly enumerates that plea of juvenility may be raised before any Court and it shall be recognized at any stage, even after final disposal of the case.** The High Court, however, did not consider and decide the prayer of juvenility raised on behalf of the appellant.”

[Emphasis supplied]

⁵ 2024 SCC OnLine 723.

13. Further, in the case of ***Vinod Katara v. State of Uttar Pradesh***⁶, this Court expanded the scope of JJ Act and held that whenever a claim of juvenility is raised, an inquiry has to be made, and such inquiry would take place by receiving evidence which would be necessary but not by an affidavit so as to determine the age of such person.

14. Keeping in view the precedents referred to hereinabove and the fact that the petitioner has placed on record documents prima facie indicating his date of birth which, when considered in the context of the date of commission of the offence, would bring him within the definition of a juvenile or a child in conflict with law. Thus, for verification of such claim by way of a proper inquiry, we deem it fit to direct the Sessions Judge, Meerut, to either by himself or through any other Additional Sessions Judge, get conducted an inquiry into the date of birth of the petitioner in accordance with the procedure provided under the JJ Act.

15. The parties, *i.e.*, the petitioner and the respondent-State and also the complainant/victim

⁶ (2023) 15 SCC 210.

side shall be given apposite opportunity to lead evidence in the inquiry. If required, the petitioner may be summoned from the jail for participating in the inquiry.

16. The inquiry shall be conducted expeditiously, and the report thereof shall be forwarded to this Court in a sealed cover within a period of three months from today.

17. List this case on 26th May, 2026.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
FEBRUARY 19, 2026.