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# BAIL JURISPRUDENCE FOR JUVENILES: INTERPRETING "DEFEATING THE ENDS OF JUSTICE"

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## ABSTRACT

Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 establishes a compelling presumption in favour of bail of the child alleged to be in conflict with the law—even if the alleged offence is bailable or non-bailable. Bail can only be denied on three very specific grounds, one of which is when "defeat the ends of justice". This expression is neither defined in the Act nor explained in the Rules but gives wide latitude of interpretation for Juvenile Justice Boards and High Courts. This paper looks at the phrase, legislative intent and judicial interpretation of that phrase. It is argued that 'the ends of justice' should only be interpreted in a narrow, concrete and proportional way, requiring specific and credible material evidence of a risk to the integrity of the proceedings, for example, that evidence might have been tampered with, that witnesses might be intimidated, that the evidence might be absconded or that the evidence might be the subject of repeated failures of compliance with directions of the judge. The paper also examines the interconnection between the rehabilitative rights of the child, the rights of the victims and the State's interest in the right to a fair trial, and recommends structured safeguards to give a more consistent, transparent and rights-respecting approach to bail decisions.

**Keywords**: juvenile justice; bail; Juvenile Justice Board; defeating the ends of justice; child rights; fair trial.

## I. Introduction

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A child alleged to be in conflict with the law is in a special position in the Indian criminal law system.[2] The general principle of the bail law has been reversed under JJ Act: firstly, the starting point is that a child who is apparently in conflict with the law "shall" be released on bail, with or without surety, or placed under the supervision of a probation officer or the care of a fit person;[3] secondly, it reflects the rehabilitative philosophy of juvenile justice law and the constitutional principles of treating children with dignity and care.[4]

The presumption is not conclusive. Section 12(1) permits denial of bail where there are reasonable grounds for believing that release would bring the child into association with a known criminal, expose the child to moral, physical or psychological danger, or defeat the ends of justice.[5] The third exception—"defeating the ends of justice"—is the most open-textured. The latter two exceptions are aimed primarily at risks to the child, while this one is about the integrity of the criminal process itself. It thus poses the most potential for conflict between the child's rights to freedom and the State's rights to a fair trial.[6]

The question of interpretation is not only doctrinal but also practical. Often Juvenile Justice Boards ("Boards") are confronted with allegations relating to serious violence, sexual offences, organised crime, narcotics and offences against the State. If so, the pressure to deny bail may arise, due to the seriousness of the accusation. But the JJ Act deliberately distinguishes between seriousness of the offence and whether the child should be released with bail: the presumption of release is made simply for every serious offence if "defeating the ends of justice" were treated as a catch-all for all serious allegations.[7] On the other hand, if the phrase were interpreted so strictly that there was no material circumstance that would ever warrant detention, then it would not serve to protect the victims or witnesses, or the fairness of trial.[8]

In this paper I propose a middle ground. The exception of defeating the ends of justice is a fact specific exception, and carries with it the requirement for concrete and credible material which shows that release would cause a "substantial and demonstrable risk of the

[2] For the ordinary bail regime, see Code of Criminal Procedure 1973 (CrPC), ss 436–439, replaced by Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), ss 478, 480, 482 and 483.
[3] Juvenile Justice (Care and Protection of Children) Act 2015 (JJ Act), s 12(1).
[4] Constitution of India 1950, arts 21, 39(e) and 39(f); JJ Act, s 3.
[5] JJ Act, s 12(1), proviso.
[6] JJ Act, s 12(1), proviso; Constitution of India 1950, art 21.
[7] JJ Act, s 12(1) (applying to a 'bailable or non-bailable offence'); cf JJ Act, s 2(33) (defining 'heinous offences').
[8] JJ Act, s 12(1), proviso.


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administration of justice". The Board shall determine the specific risk, link it to credible material, evaluate less restrictive options and document in writing. The gravity of the offence is of relevance only if it is relevant to a legally recognised risk and not as an alternative to it.[9]

In Part II, the statutory framework is explored. Part III explains the meaning of "defeating the ends of justice." The judicial approaches are analysed in Part IV. Burden, Evidence and Procedure are covered in Part V. Heinous crimes and age-related issues are discussed in Part VI. Part VII provides recommendations and Part VIII concludes.

## II. The Statutory Framework

According to clause (1) of section 12 of the JJ Act, a person who is "apparently a child" and is alleged to have committed a bailable or non-bailable offence. Apprehended, detained, appeared or produced before the Board, such person is to be released on bail with or without surety, or under supervision or in the care of a fit person etc.[10] This clearly overrules the provisions of the Code of Criminal Procedure, 1973 ("CrPC") and the words "any other law for the time being in force", indicating that the ordinary bail regime cannot simply be applied to children.[11]

There are three exceptions to the provision. Bail may be denied where it is probable that the child will become associated with a known criminal, first. Second, it can be denied in cases where a child might be put at moral, physical or psychological risk if they were released. Third, it may be denied if release would be contrary to the ends of justice.[12] The recording requirement is not a rhetorical exercise; rather, it is the main way the legislature attempts to hold discretion to account and allows for appellate or revisional review.[13]

Section 12(2) provides that if an apprehended child is not released by the officer in charge of the police station, the child shall be detained only in an observation home until he is produced before the Board.[14] This further confirms two propositions. First, police custody as a matter of procedure is not the norm for children. Second, any deprivation of liberty during the time

[9] JJ Act, s 12(1), proviso (the Board 'shall record the reasons for denying the bail and circumstances that led to such a decision').
[10] JJ Act, s 12(1).
[11] JJ Act, s 12(1) ('notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force').
[12] JJ Act, s 12(1), proviso.
[13] JJ Act, s 12(1), proviso; JJ Act, ss 101 (appeals) and 102 (revision).
[14] JJ Act, s 12(2).


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of investigation must be based on the statutory exceptions, not for administrative convenience.[15]

These definitions are relevant as the Act gives different treatment to children on the basis of age and nature of the alleged offence at the stages of preliminary assessment and preliminary trial.[16] The section 12 itself, however, does not establish a distinct standard of bail for heinous offences. The bail presumption is applicable to children brought before the court for a charge of any bailable and non-bailable offence.[17]

The 2021 amendment to the JJ Act introduced several institutional changes, such as the amendment to the core bail language in section 12(1), but no substantive changes.[18] The consistent treatment of the same three exceptions suggest a continued acceptance of a narrow exception-based approach: release is the norm, and refusal is justified.[19]

International obligations of India must also be taken into account when interpreting the statutory design. The United Nations Convention on the Rights of the Child is based on the principles of last resort and shortest possible detention,[20] and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, or the Beijing Rules, have also a restrictive view of the exceptions to juvenile bail,[21] but both do not abrogate domestic law.

## III. Interpretation of the "Defeating the Ends of Justice"

The language "defeating the ends of justice" is not defined in the JJ Act or rules that have been drafted under the JJ Act.[22] In the context of bail, the term ordinarily refers to a variety of threats including absconding, failure to appear, destroying evidence or electronic records, tampering with evidence, influencing or threatening witnesses, and any other threats that

[15] JJ Act, s 12(2)–(3).
[16] JJ Act, ss 2(12), 2(13), 2(33), 15 and 18(3).
[17] JJ Act, s 12(1).
[18] Juvenile Justice (Care and Protection of Children) Amendment Act 2021 (Act 23 of 2021) (amending, among other provisions, s 12(2) of the JJ Act).
[19] JJ Act, s 12(1), proviso.
[20] Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC), art 37(b).
[21] United Nations Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules') (adopted 29 November 1985) UNGA Res 40/33, rr 13, 17 and 19.
[22] JJ Act, s 2; Juvenile Justice (Care and Protection of Children) Model Rules 2016, r 2.


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would make it difficult for the justice system to fairly, timely and effectively investigate or conduct a trial.[23]

A narrow reading is bolstered by the structure of section 12. A direction to release the child is required to commence the provision. The proviso next makes exceptions. The purpose of section 12 is to ensure the child is released unless a specified risk is found.[24] The general wording after the enumerated risks should be interpreted in the context of the provision's dominant purpose, and not as a source of unfettered discretion.[25]

The phrase needs to be split up into three parts. First, there must be a legal risk to the proceedings; such as a real threat that the child will run away or threaten a witness, destroy evidence or otherwise interfere with the proceedings. Secondly, the risk should be backed by reasonable grounds—reasonable grounds that the reasonable Board acting judicially would adopt as those grounds. Third, the Board shall take into account whether the risk can be mitigated by a condition other than detention, such as supervision by a probation officer, placement with a suitable person, periodic reporting, limitations on contact with witnesses, surrender of travel documents, or other suitable conditions as appropriate.[26]

These are significant words: “reasonable grounds for believing.” They do not demand proof beyond reasonable doubt, they demand more than suspicion, Conjecture or moral disapproval. The Board must establish the source of the belief, whether that is because of the case diary, previous conduct, credible witness statement, expert assessment, or other admissible material, and explain the reasons why the material leads to the conclusion.[27] A conclusion that release “may” cause prejudice, but doesn't specify how, is not a conclusion that meets the statutory standard.

The expression should also be interpreted in a prospective and concrete manner. The issue is not whether the alleged offence was serious or whether the child is morally culpable, it is whether release would pose a ‘real risk of defeating the pending proceedings'. Previous behaviour or a pattern of absconding, intimidation of witnesses or failure to comply is

[23] JJ Act, s 12(1), proviso.
[24] JJ Act, s 12(1).
[25] JJ Act, s 12(1), proviso.
[26] JJ Act, s 12(1) (release ‘with or without surety’, or under the supervision of a probation officer or the care of a fit person).
[27] JJ Act, s 12(1), proviso (‘reasonable grounds for believing’).


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relevant. A single allegation, however severe, however serious, is however, insufficient to show the child will not be served the ends of justice.[28]

Last, the exception needs to be applied on a proportional basis. In all cases, in spite of some risk, the Board should question whether detention is needed and whether conditions can accept the risk. Proportionality is in keeping with the rehabilitative purpose of the JJ Act and the constitutional principle that restrictions on liberty must be reasonable, fair and just.[29]

**IV. Judicial Approaches**

As regards children alleged to be in conflict with law, the Indian courts have widely accepted that bail is the norm and detention is the exception. Judicial interpretation of section 12 makes it clear that refusal is justified only on a basis of an objective assessment of reasonable grounds, not in the absence of any evidence of reasons or circumstances.[30] The wording of the statutory text reinforces this: the Board is required to record reasons and circumstances, which implies that it is required to make a reasoned decision rather than simply being satisfied in the absence of any evidence of reasons or circumstances.[31]

Courts have also made it clear that the three grounds listed in section 12 are specific. This formulation is important as it does not invite the addition of all the bail considerations that may be drawn from the general law, without making a connection with the exceptions as stated in the statute.[32]

The Gujarat High Court in the case of *Nileshbhai Vitthalbhai Vasava v State of Gujarat* also reiterated that the statutory rider is the only reason for not releasing an apparent juvenile and the Board's duty to record reasons and circumstances in case of a denial of bail.[33] These observations underscore the responsibility of the authority seeking detention to show why the statutory presumption should give way.

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[28] JJ Act, s 12(1), proviso.
[29] Constitution of India 1950, arts 14 and 21; *Maneka Gandhi v Union of India* (1978) 1 SCC 248; JJ Act, s 3.
[30] JJ Act, s 12(1), proviso; see generally 'Role of the Judiciary in Shaping Juvenile Justice System in India' (LiveLaw, 8 October 2024) <https://www.livelaw.in/articles/role-judiciary-shaping-juvenile-justice-system-india-271944>.
[31] JJ Act, s 12(1), proviso.
[32] 'Serious Nature of Offence Not a Ground for Denying Bail to Juvenile' (SCC Online Blog, 18 July 2025) <https://www.scconline.com/blog/post/2025/07/18/patna-high-court-serious-nature-of-offence-not-a-ground-for-denying-bail-to-juvenile/> (reporting a decision of the Patna High Court dated 8 July 2025).
[33] *NileshbhaiVitthalbhai Vasava v State of Gujarat* (Guj HC, Criminal Revision Application No 901 of 2021, 28 April 2022) <https://indiankanoon.org/doc/45701225/>.



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In recent times, the Supreme Court has had to resolve cases involving juvenile bail implementations where the apprehended juvenile's alleged risk of association with a known criminal and his exposure to moral, physical and psychological dangers have been the core issues. In 2025, the Court in reviewing the material placed on record by the authorities held that it did not interfere with the impugned orders, having considered that material, and finding that it was satisfactory to sustain the statutory exception.[34] The decision highlights that the appellate court scrutinizes whether the material before the authorities is sufficient to support the statutory exception. It also shows that not every factual inference will be automatically appreciated by a court; they will determine whether the decision making process was lawful, reasoned and based on relevant material.[35]

Another track of authority is for how to determine juvency.[36] The above mentioned cases are of importance because they brief the jurisprudence on when a person is a child in relation to age and not bail, but they are important because of the fact that a person can invoke section 12 only if the question of 'apparent juvenility' is properly addressed.[37]

Courts have thus to steer clear of two extremes. The first is that the bail application of the child is being treated as an ordinary bail application under the CrPC or Bharatiya Nagarik Suraksha Sanhita, 2023, and granted bail only on the ground of gravity of the offences.[38] The second is to apply the statutory presumption without considering whether there is a credible alternative that triggers one of the statutory exceptions; the Board must do the second, and must do it contextually, after establishing that there is a statutory exception that is being relied upon, assess the material, consider alternatives, and record reasons.[39]

It is important to avoid mixing up the concept of "defeating the ends of justice" with "the interests of justice" in a general way. The latter could cover more general aspects of public confidence, punishment and deterrence. The latter, as applied in section 12, is more narrow: it only applies when release would affect the pending inquiry or trial. If it is interpreted as a

[34] *Juvenile Delinquent v State of UP* 2026 INSC 387 (SC, 6 April 2026), arising out of SLP (Crl) No 16883 of 2025 <https://indiankanoon.org/doc/193207511/>.
[35] JJ Act, ss 101 and 102.
[36] *Pratap Singh v State of Jharkhand* (2005) 3 SCC 551; *Hari Ram v State of Rajasthan* (2009) 13 SCC 211; *Jarnail Singh v State of Haryana* (2013) 7 SCC 263.
[37] JJ Act, ss 2(12), 12(1) and 94.
[38] CrPC, ss 436–439; BNSS, ss 478, 480, 482 and 483; JJ Act, s 12(1).
[39] JJ Act, s 12(1), proviso.


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general public interest clause, it will make it difficult to distinguish between juvenile bail and adult bail, which is not the intent of the Act.[40]

**V. Burden, Evidence and Procedure**

It does not imply that section 12 imposes no obligations on the child to give the Board relevant facts.[41] If the child has previously run away, broken the supervision guidelines, or met with witnesses when prohibited to do so, the Board can fairly take that into account. However, the lack of that material can't be remedied simply by saying that it is already serious offence.

“Reasonable grounds for believing” is the standard of proof. This is an objective standard with a subjective application: the Board must act on material that would reasonably support the belief, and must record the basis for its conclusion.[42] The requirement of recorded reasons serves three functions. It forces the Board to differentiate between suspicion and evidence; allows the child and child's counsel to understand and question the Board's determination; and lets the High Court, under its supervisory or revisional jurisdiction, review the application of the statutory standard.[43]

The procedure should also safeguard the child’s involvement. The child shall normally be represented, and the child's family or guardian shall be informed; and, if such a report exists, the Board shall consider a social background report or a probation officer's report. The Board should use these materials to inform its legal analysis, but they are not intended to supplant it in its assessment of family support, educational continuity, risk of criminal influence, and the viability of supervised release.[44]

The Board is also required to consider less stringent conditions of release before the automatic release of bail is denied. They are not just formal alternatives, but are part of the statute's “graduated” approach, with section 12 contemplating release “with or without surety” as well as under the “supervision” of a probation officer or “the care of a fit person.” The Board may have a difficult time meeting the proportionality requirement if it takes the

[40] JJ Act, s 12(1), proviso; cf CrPC, s 437; BNSS, s 480.
[41] JJ Act, s 12(1), proviso.
[42] JJ Act, s 12(1), proviso.
[43] JJ Act, ss 101 and 102.
[44] JJ Act, s 12(1); Juvenile Justice (Care and Protection of Children) Model Rules 2016.


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leap from release to detention without any explanation of why supervision or fit-person care would be of no value.[45]

The interest of the victim and the witness are worthy of serious consideration. The release of a child cannot be used to scare a victim or witness. Witness-protection should not be based solely on a general statement that witnesses might be influenced, without any material being presented.[46]

**VI. Heinous Offences, Age and Individualised Assessment**

The JJ Act establishes a harsher route for some older kids who are accused of committing heinous crimes. In line with the Act, a child aged 16 or older who is alleged to have committed a heinous offence can be taken for a preliminary assessment to see whether a child should be tried as an adult, thereby sparking a significant amount of litigation over the nature of the preliminary assessment, the rights of the child, and the standard of evidence that should be applied at that stage.[47]

But the enquiry under section 12 is different in analysis from that of a preliminary assessment. The first deals with the status of the person awaiting investigation or trial; the second with the forum, and the procedure in trial. The statutory language does not "carve out" heinous offences from the bail presumption.[48]

Risk is also assessed based on the age of the child. A younger child might be more susceptible to becoming a victim of exploitation, coercion, or criminal influence, further bolstering a case for supervised release over detention. An older adolescent may exhibit other concerns, especially if there is evidence of repeated offending or organised involvement. However, the outcome cannot be decided by age alone, but must depend on the evaluation of the individual child, the family and social environment and the specific risk alleged.[49]

This is an individual approach which is in line with the objective of rehabilitating as outlined in the Act. Children in detention may be subject to criminal influences, school disruption, and

[45] JJ Act, s 12(1).
[46] JJ Act, s 12(1), proviso.
[47] JJ Act, ss 2(33), 15 and 18(3); see also *Barun Chandra Thakur v Master Bholu* (SC, Criminal Appeal No 950 of 2022, 13 July 2022).
[48] JJ Act, s 12(1) (‘bailable or non-bailable offence’); cf JJ Act, s 15.
[49] JJ Act, ss 2(12), 12(1) and 15.


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stigma.[50] Detention can itself be a source of criminal influence, disruptions to education and stigma. The consequences do not imply that detention is never to be used; the consequence is rather that detention is to be used only on the basis of evidence, not assumption.[51]

## VII. Recommendations

First, Juvenile Justice Boards need a standard bail-reasoning process. The order should include a statement to the effect that there is a statutory presumption, what exception the Board has relied upon, what specific materials are relied upon, the Board's finding as to credibility and relevance, any less restrictive alternatives considered, and why the less restrictive alternatives are being rejected.[52] This would enhance transparency and reviewability of decisions.

The list should be illustrative rather than exhaustive and each item should give rise to concrete material: credible risk of absconding; tampering with or destruction of evidence; intimidation, threat to, or influence of witnesses; repeated violation of bail or supervision conditions; and credible material evidence of coordinated obstruction of the inquiry.[53]

Third, the gravity of the offence ought to be expressly made an exemption without doubt. It is only relevant when it is relevant to a statutory risk, such as the possibility of witness influence or destruction of evidence in the context of an alleged organised offence.[54]

Fourth, Boards should seriously think about and document supervised-release options. This could include probation supervision, living with a suitable adult, limitations on associations or relationships with designated people, reporting requirements, continuity of school attendance, counselling and electronic or other monitoring when appropriate and legally and proportionately required.[55]

Fifth, that the appellate and revisional courts make use of a structured standard of review. They should check to see if the Board had the right legal exception, if the material reasonably

[50] JJ Act, s 3.
[51] JJ Act, s 12(1), proviso; CRC, art 37(b).
[52] JJ Act, s 12(1), proviso.
[53] JJ Act, s 12(1), proviso.
[54] JJ Act, s 12(1), proviso.
[55] JJ Act, s 12(1).


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supported it, if reasons were noted, and if less restrictive options were discussed. A ruling based on the gravity of the accusation should be subject to interference.[56]

Sixth, Board members, police officers, probation officers and legal-aid lawyers should be trained on the difference between adult and juvenile bail. The goal is not to diminish the protection of the victim or witness, but to make sure that the presumption in the statute is not undermined by unstudied presumptions.[57]

## VIII. Conclusion

The term ‘defeating the ends of justice' has a narrow but significant role in juvenile bail jurisprudence. It safeguards the integrity of the criminal process, while maintaining the presumption of JJ Act that no child should be detained unless a specific statutory risk is found. The words should be understood as meaning something real, credible and proportional that establishes a risk to the inquiry or trial. No offence is so serious as to justify a shortcuting of that material, and no public opinion or fears of future behaviour are enough to justify such a shortcut.

A rights-based juvenile bail jurisprudence doesn't disregard victims or witnesses. It demands that restrictions on a child's freedom of movement have to be based on evidence, specific to the risk and supported by reasoned orders. Thus, the justice system can ensure both fairness of the process and the rehabilitative goals of juvenile justice law.[58]

**Table 1: The Three Statutory Exceptions to Juvenile Bail**[59]

| Statutory exception | Core concern | Illustrative material | Interpretive caution |
|---|---|---|---|
| Association with a known criminal | Risk that release will expose the child to criminal influence | Evidence of contact with identified offenders, prior association, or coercive environment | “Known criminal” requires identification; vague allegations of bad company are insufficient |
| Moral, physical or psychological danger | Risk to the child’s safety, well-being or healthy development | Credible threats, unsafe home environment, exploitation, medical or psychological assessment | The exception protects the child; it should not become a pretext for punitive detention |

[56] JJ Act, ss 101 and 102; JJ Act, s 12(1), proviso.
[57] JJ Act, s 12(1), proviso; Constitution of India 1950, arts 14 and 21.
[58] JJ Act, s 12(1), proviso; CRC, art 37(b).
[59] JJ Act, s 12(1), proviso.


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| | | | |
|---|---|---|---|
| Release would defeat the ends of justice | Risk to the integrity of inquiry or trial | Absconding, witness intimidation, destruction of evidence, breach of prior orders | Requires concrete, credible and proportionate material; gravity alone is not enough |

**Table 2: Ordinary Bail and Juvenile Bail Compared**[60]

| **Issue** | **Ordinary bail: CrPC / BNSS** | **Juvenile bail: Section 12, JJ Act** |
|---|---|---|
| Starting point | Release or detention depends on judicial discretion under the relevant bail provisions | Release on bail, supervision or fit-person care is the statutory rule |
| Nature of offence | Bailable and non-bailable offences receive different treatment | The presumption applies to both bailable and non-bailable offences |
| Principal considerations | Nature and gravity of accusation, antecedents, flight risk, evidence and witness safety | Statutory exceptions: criminal association, danger to the child, or defeating the ends of justice |
| Role of gravity | Often central to the bail analysis | Relevant only insofar as it supports a statutory exception |
| Reasons | Judicial orders ordinarily state reasons | The Board must specifically record reasons and circumstances for denial |

[60] CrPC, ss 436–439; BNSS, ss 478, 480, 482 and 483; JJ Act, s 12(1).



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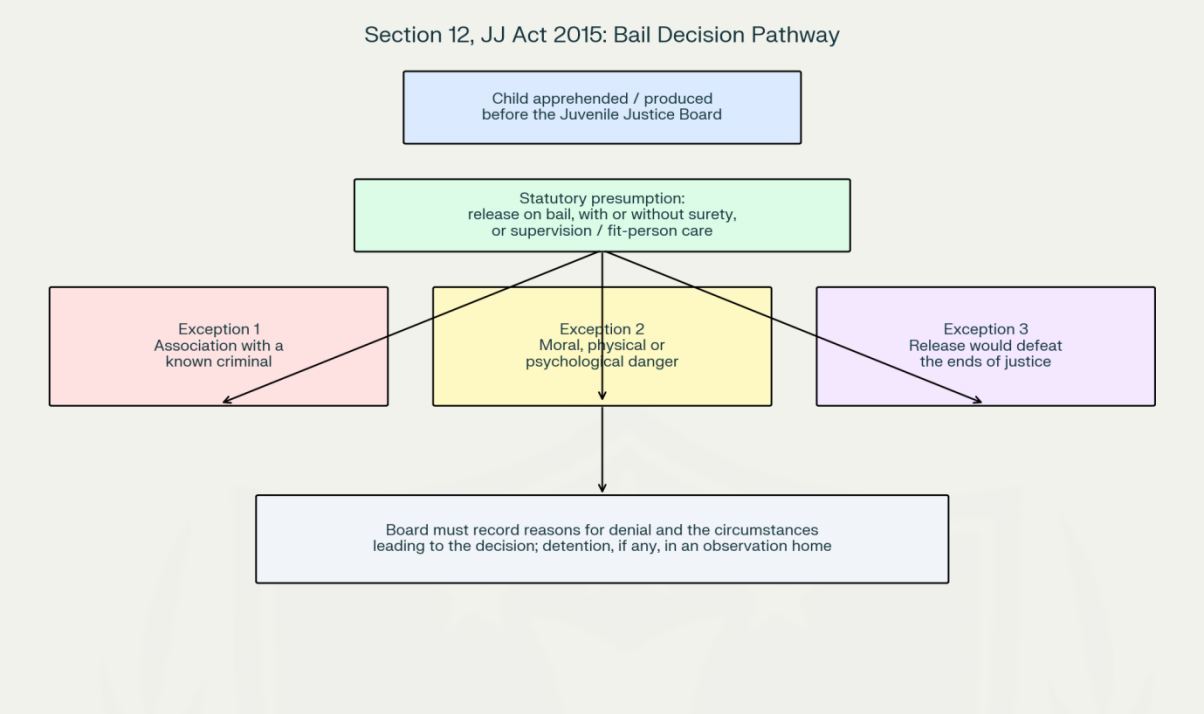



Figure 1: Statutory bail pathway under section 12 of the JJ Act, 2015.[61]

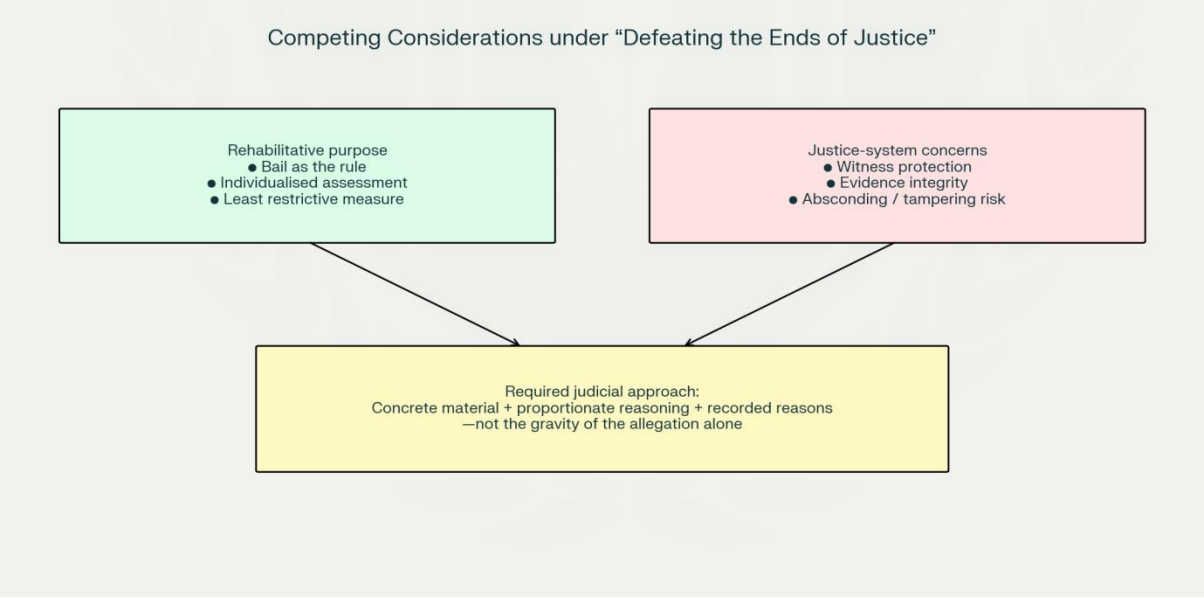



Figure 2: Balancing rehabilitative objectives and fair-trial concerns.

[61] JJ Act, s 12(1)–(3).


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