

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH.
(*Judicial Department*)

JUDGMENT

Cr.R. No. 76-B/2025

Ali Marjan alias Almar Jan.

Versus

The State etc.

Date of hearing 19.11.2025.

For petitioner: Mr. Muhammad Anwar Khan Maidad Khel, advocate.

For the State: Mr. Abdul Qayum Khan Marwat, Asstt: A.G.

For respondent: Haji Hamayun Khan Wazir, advocate
(Via Video Link).

ABDUL FAYAZ, J.-

1. The instant Criminal Revision Petition has been filed under Sections 435/439 Cr.P.C. assailing the order dated 20.10.2025 passed by the learned Additional Sessions Judge-IV, Lakki Marwat, whereby the application moved by the petitioner seeking declaration of juvenility was dismissed.

2. The essential facts, necessary for the adjudication of this petition, are that the petitioner is an under-trial accused facing prosecution in FIR No.62 dated 03.08.2024 under Section 302 PPC, registered at Police Station Azad Khel, District Lakki

Marwat. During the course of the trial, he submitted an application asserting that, as per the Smart Card obtained two years prior, he was below 18 years of age at the time of the occurrence. The learned trial court, however, dismissed the application through the impugned order, prompting the petitioner to file the present Criminal Revision Petition.

3. Arguments advanced by learned counsel for the parties, as well as the learned Assistant Advocate General have been heard at length, and the available record has been examined.

4. Perusal of the impugned order shows that the petitioner is in possession of a CNIC, a copy of which was also produced before the learned trial court. The CNIC reflects his date of birth as 01.01.2006, while the occurrence took place on 03.08.2024, indicating that the petitioner was approximately 18 years and 7 months old at the time of the incident. However, the arrest card prepared on 13.04.2025 records his age as 20/21 years. Relying upon this discrepancy in the above documents, the learned trial court concluded that the petitioner was not a minor at the time of the occurrence.

5. This Court is of the considered view that a CNIC issued by NADRA, by itself, does not constitute an independent or reliable source for determining the age of an accused person, as such documents are prepared on the basis of information

supplied either by the individual or by a related person. Therefore, a CNIC cannot be treated as conclusive proof of the date of birth. It is also a well-settled principle that where the age of an accused cannot be conclusively established through documentary evidence, and where assessments differ, preference must be accorded to medical opinion.

6. In the present case, two documents—the CNIC and the arrest card—are on record, and both provide contradictory ages. Such inconsistency undoubtedly necessitates further inquiry. However, the Code of Criminal Procedure does not prescribe a specific procedure for age determination, while the Juvenile Justice System Act, 2018 provides a clear mechanism. In this regard, it is appropriate to reproduce Section 8 of the Act, which reads as follows:-

"8. Determination of age.—(1) Where a person alleged to have committed an offence physically appears or claims to be a juvenile for the purpose of this Act, the officer-in-charge of the police station or the investigation officer shall make an inquiry to determine the age of such person on the basis of his birth certificate, educational certificates or any other pertinent documents. In absence of such documents, age of such accused person may be determined on the basis of a medical examination report by a medical officer."

7. It is further observed that whenever the question of juvenility arises before a Court, an inquiry becomes obligatory. In this respect, reliance is placed on the case "*Gufran Ali v.*

Haseeb Khan and another" [PLD 2023 (Supreme Court)

536], wherein it was held that:-

"**5.** -----This Court held that "whenever such a question of age is raised or arises at the trial, the courts should not deal with the same in a cursory or in a slip-shod manner but must proceed to hold an inquiry in the matter as commanded by the provisions of section 7 of the Juvenile Justice System Ordinance including medical examination of the accused for the purpose." As per Section 510, Cr.P.C. the report of the expert in various fields of science can be produced in evidence without calling them and can be used as evidence in any inquiry or trial or other proceedings. The learned High Court has correctly appreciated the material aspects of the case and the conclusions drawn are in line with the guidelines enunciated by this Court on the subject. Learned counsel for the petitioner has not been able to point out any legal or factual error in the impugned judgment, which could be made basis to take a different view from that of the learned High Court."

8.

Similarly, in the case "**Mirwise v. Mohib-ur-Rehman, SI/S.H.O Police Station Saddar Loralai and another" [2012 P.Cr.L.J 1032]**", it has been held:-

"12. In case in hand, there can be no two opinions that in Article 8 of the Act there is a statutory command that the Court should hold an inquiry when it is confronted with a question about the age of an accused person. Since the purpose of an inquiry, as we have already seen, is to find out the truth, it should be spread over a fairly broad spectrum. The Court should not only take into consideration the documents produced by the parties, but where necessary, it should also record statements of the witnesses. It should also requisition medical report, which means clinical and radiological examination of the accused or what is called his ossification test. In my opinion, a plain reading of Article 8 of the Act shows that this is mandatory unless there are strong reasons to dispense with the same. On the conclusion of the inquiry, the Court should give its findings after considering all the

evidence brought before it in accordance with the established principles of criminal jurisprudence.

For the above stated reasons, I am inclined to accept the petition. Consequently the order dated 12.03.2019, passed by learned Judicial Magistrate-XIII, Quetta, and impugned order dated 22.05.2019, passed by learned Additional Sessions Judge-III, Quetta, (Revisional Court) are hereby set aside. The case is remanded to the trial Court with the direction to conduct the inquiry for determination of the age of petitioner in view of Article 8 of the Act."

9. True that ordinarily, the date of birth of a person is determined on the basis of documentary proof i.e. birth certificate, educational documents and National Identity Card etc, but when the date of birth is disputed and varies on all such documents then the ossification test is the best way to determine a person's age. The ossification test is a test that determines age based on the "degree of fusion of bone" by taking the x-ray of a few bones. In simple words, the ossification test or osteogenesis is the process of the bone formation based on the fusion of joints between birth and the age of twenty five years in an individual. Bone age is an indicator of the skeletal and biological maturity of an individual which assists in the determination of age. The ossification test varies slightly based on individual characteristics such as climatic conditions, where the person was born and raised, dietetic values, hereditary differences etc.

10. In light of the foregoing discussion, and particularly in view of the contradictory documentary evidence regarding the petitioner's age, this Court finds that the learned trial court erred in dismissing the petitioner's application without undertaking the mandatory inquiry envisaged under Section 8 of the Juvenile Justice System Act, 2018. The law requires a comprehensive inquiry—examining all relevant documents, recording statements where necessary, and, in the absence of clear evidence, obtaining a medical assessment to determine the true age of the accused. The approach adopted by the learned trial court is, therefore, contrary to the settled principles laid down by the superior courts, including the above cited judgments. Consequently, the impugned order is not sustainable in law, needs indulgence of this court.

11. Consequently, this Criminal Revision Petition is accepted and the impugned order is set aside. The learned trial court is directed to forthwith constitute a Standing Medical Board for the determination of the age of the accused in terms of Section 8 of the Juvenile Justice System Act, 2018, and thereafter to proceed with the matter strictly in accordance with law.

Announced

Dt: 19.11.2025

*Imranullah*PS

(S.B) Hon'ble Mr. Justice Abdul Fayaz.

SCANNED

21/11/2025
Khalid Khan