



2026:CGHC:18098-DB

**AFR****HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1607 of 2025**

Santosh Kumar Sahu S/o Laxman Sahu Aged About 39 Years R/o Daldalsiwani, Shivaji Nagar, Raipur, P S Pandri, Dist- Raipur C.G., Permanent Address - Village Ayodhyapuri NTPC, PS Darri, Dist- Korba C.G.

**... Appellant****versus**

State of Chhattisgarh Through Police Station Pandri, Dist Raipur C.G.

**---- Respondent**

(Cause Title taken from Case Information System)

---

For Appellant : Mr. N. Naha Roy, Advocate

For Respondent/State : Ms. Anusha Naik, Deputy Government Advocate

---

**Hon'ble Mr. Ramesh Sinha, Chief Justice**  
**Hon'ble Mr. Ravindra Kumar Agrawal, Judge**

**Judgment on Board****Per Ramesh Sinha, Chief Justice****21.04.2026**

1. Heard Mr. N. Naha Roy, learned counsel for the appellant as well as Ms. Anusha Naik, learned Deputy Government Advocate, appearing for the State/respondent.

2. Today, though the criminal appeal has been listed for hearing on I.A. No.01, application for suspension of sentence and grant of bail to the appellant, however, with the consent of learned counsel for the parties, the appeal is heard finally as the appellant is in jail since 13.09.2020.
3. Accordingly, I.A. No.01, application for suspension of sentence and grant of bail to the appellant, stands disposed of.
4. The appellant has preferred this appeal under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') questioning the impugned judgment dated 29.05.2025 passed by the learned Additional Sessions Judge, Fast Track Special Court (POCSO), Raipur, District Raipur (C.G.) in Special Case (POCSO) No.182/2020, whereby the trial Court has convicted and sentenced the appellant with a direction to run all the sentences concurrently in the following manner :-

<b><u>CONVICTION</u></b>	<b><u>SENTENCE</u></b>
Under Section 376(3) of the Indian Penal Code, 1860	Rigorous imprisonment for life means incarceration for whole natural life with fine amount of Rs.10,000/-, in default of payment of fine, additional rigorous imprisonment for 04 months.
Under Section 376(2)(n) of the Indian Penal Code, 1860	In the alternative, conviction of the appellant under Section 6 of the Protection of Children from Sexual Offences Act, 2012.
Under Section 506 of	Rigorous imprisonment for 01 years with

the Indian Penal Code, 1860	fine amount of Rs.1,000/-, in default of payment of fine, additional rigorous imprisonment for 01 month.
Under Section 6 of the Protection of Children from Sexual Offences Act, 2012	Rigorous imprisonment for life means incarceration for whole natural life with fine amount of Rs.10,000/-, in default of payment of fine, additional rigorous imprisonment for 04 months.

5. Learned State counsel submits that notice issued to PW-2, i.e. the mother of the victim has been served, but none has appeared on behalf of the victim to contest the present appeal.

### **BRIEF FACTS**

6. The prosecution case, in brief, is that on 12.09.2020, the prosecutrix/victim (PW-01) lodged a written complaint (Exhibit P-01) at Police Station Pandri, District Raipur, alleging commission of repeated sexual assault upon her by the accused. In the said complaint, she disclosed that she was a minor aged about 14 years and 11 months at the relevant time. It was specifically alleged that on 15.01.2020 at about 11:00 a.m., the accused committed forcible sexual intercourse with the prosecutrix against her will. It was further alleged that thereafter, by extending threats of death to her and her family members, the accused repeatedly sexually assaulted her over a period of about eight to nine months.
7. On the basis of the said complaint (Ex. P-01), FIR (Exhibit P-02) was registered at Police Station Pandri, District Raipur, in Crime No.

138/2020 for offences punishable under Sections 376(2)(f) and 506 of the Indian Penal Code, 1860 (for short, 'IPC') and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act'), and investigation was set into motion. During investigation, the prosecutrix was medically examined on 12.09.2020 at District Hospital, Raipur, after obtaining her consent (Exhibit P-04) and consent of her mother (Exhibit P-09). As per medical examination report (Exhibit P-11), the prosecutrix was found to be pregnant, with gestational age assessed at about 24 to 26 weeks.

8. The investigating officer prepared the spot map on 13.09.2020 (Exhibit P-03). A further site map was also prepared by the Patwari on 05.10.2020 (Exhibit P-20A). The statements of the prosecutrix and other witnesses were recorded under Section 161 Cr.P.C. during investigation. The statement of the prosecutrix under Section 164 Cr.P.C. was recorded on 14.09.2020 before the learned Judicial Magistrate First Class, Raipur, wherein she reiterated the allegations of sexual assault committed by the accused.
9. The accused was arrested on 13.09.2020 vide arrest memo (Exhibit P-28), and his medical examination was conducted. As per report (Exhibit P-23A), no medical abnormality was found suggesting incapacity to perform sexual intercourse. During the course of trial, the prosecutrix delivered a child on 20.11.2020. Thereafter, on an application moved by the prosecution (Exhibit P-31), the Court

permitted collection of blood samples of the accused, prosecutrix, and the child for DNA profiling. Pursuant thereto, consents were obtained (Exhibits P-42 and P-43), and blood samples were collected and seized vide seizure memo (Exhibit P-44). The samples were sent to the State Forensic Science Laboratory, Raipur through official communication (Exhibit P-46). As per DNA report (Exhibit P-49), it was conclusively established that the accused is the biological father of the child born to the prosecutrix.

- 10.** With regard to the age of the prosecutrix, the prosecution relied upon the school admission and withdrawal register (Exhibit P-13C) and Class VII marksheet (Exhibit P-27), wherein the date of birth of the prosecutrix is recorded as 04.10.2005, thereby establishing that she was a minor at the time of incident. It further emerged from the evidence that the prosecutrix was residing with her parents, who were engaged in business, and she was studying in Class X at the relevant time. The accused was earlier residing in the vicinity on rent and had later shifted after constructing his own house.
- 11.** As per the prosecution case, on 15.01.2020, when the prosecutrix was alone at home, she went to the house of the accused to play with his children. It is alleged that the accused, taking advantage of the situation, forcibly dragged her into a room and committed sexual intercourse with her despite her resistance. It is further alleged that he threatened her with death if she disclosed the incident, due to which she remained silent and thereafter continued to sexually

exploit her on several occasions. It is further stated that in April 2020, the prosecutrix noticed stoppage of menstruation and informed her mother, whereafter she was taken to PW-06 Dr. Prachi Baranwal, who initially advised treatment. Subsequently, sonography revealed pregnancy of about 27 weeks.

- 12.** Thereafter, statements of witnesses were recorded under Section 161 of Cr.P.C. and, after due investigation, the police filed charge-sheet in the concerned jurisdictional Court and, thereafter, the case was committed to the Court of Sessions for trial in accordance with law, from where the learned Fast Track Court under POCSO Act, Raipur, District Raipur (C.G.) received the case on transfer for trial and for hearing and disposal in accordance with law. The trial Court has framed charges against the appellant for the offence punishable under Sections 363, 366, 376(2)(d), 376(3) of the IPC as well as Section 6 of the POCSO Act and proceeded on trial. The appellant abjured his guilt and entered into defence stating that he has not committed any offence and he has been falsely implicated in the crime in question.
- 13.** So as to prove the complicity of the accused/appellant in the alleged offence, the prosecution has examined as many as 10 witnesses and has adduced documentary evidence by exhibiting 49 documents in support of its case.
- 14.** The prosecutrix has been examined as PW-01, who has fully supported the prosecution version and reiterated the allegations

made in her written complaint (Exhibit P-01) as well as in her statement under Section 164 Cr.P.C. recorded before the Magistrate. Her testimony has been further corroborated by PW-02 (mother of the prosecutrix), who has deposed regarding the subsequent conduct of the prosecutrix, her pregnancy, and the medical examination conducted upon her. PW-03 and PW-06, being the medical officers, have proved the medical examination reports of the prosecutrix, including Exhibit P-11, which reflects that the prosecutrix was found pregnant at the relevant time.

- 15.** PW-04, the official from the school, has proved the admission and withdrawal register as well as the marksheet (Exhibits P-13C and P-27), thereby establishing the date of birth of the prosecutrix as 04.10.2005. PW-05, the Sub Inspector, has proved the recording of statements of the prosecutrix and other witnesses under Section 161 Cr.P.C. PW-07, the Patwari, has supported the preparation of the site plan (Exhibit P-20A). PW-08, the Investigating Officer, has proved the entire course of investigation, arrest of the accused, seizure memos, forwarding of exhibits, and filing of charge-sheet. The scientific evidence has been proved through DNA report (Exhibit P-49), which conclusively established that the accused is the biological father of the child born to victim. The documentary evidence, as exhibited from Exhibit P-01 to Exhibit P-49, includes the FIR, medical reports, site plans, seizure memos, consent forms, statements under Sections 161 and 164 Cr.P.C., school records, arrest memo, forwarding letters, and DNA

analysis report, all of which collectively form part of the prosecution case. On the other hand, in support of his defence, the appellant/accused has neither examined any independent witness nor produced or exhibited any documentary evidence to rebut the prosecution case. The defence of false implication taken by the accused in his statement under Section 313 Cr.P.C. thus remains unsubstantiated by any cogent or reliable evidence on record.

16. In view of the aforesaid evidence adduced by the prosecution and the absence of any defence evidence, the case of the prosecution rests upon the testimony of the prosecutrix, corroborated by medical, documentary, and scientific evidence, which has been duly brought on record through the testimony of the aforesaid witnesses and exhibits.
17. The trial Court after completion of trial and after appreciating oral and documentary evidences available on record, by the impugned judgment dated 29.05.2025 convicted and sentenced the appellant in the manner mentioned in the fourth paragraph of this judgment, against which this appeal under Section 415(2) of the BNSS has been preferred by him calling in question the impugned judgment of conviction and order of sentence.

### **SUBMISSIONS**

18. Mr. N. Naha Roy, learned counsel for the appellant submits that the impugned judgment of conviction and sentence passed by the

learned trial Court is wholly unsustainable in law as well as on facts, inasmuch as the prosecution has miserably failed to prove the charges levelled against the appellant beyond reasonable doubt, and therefore, the appellant is entitled to be acquitted of all the charges. It is submitted that the learned trial Court has failed to properly appreciate the evidence on record in its correct perspective and has proceeded on surmises and conjectures while recording conviction against the appellant. It is contended that the testimony of the prosecutrix (PW-01) suffers from material contradictions and inconsistencies, which go to the root of the prosecution case and render her evidence unreliable and unsafe to be acted upon for sustaining conviction. It is further argued that the allegation of repeated sexual assault over a prolonged period of eight to nine months, allegedly under threat, becomes inherently doubtful when the prosecutrix herself came to know of her pregnancy only at an advanced stage of about 27 weeks, which casts a serious doubt on the veracity and spontaneity of her version.

- 19.** Mr. Roy further submitted that the learned trial Court has gravely erred in law in holding that the prosecutrix was a minor at the time of occurrence. According to the learned counsel, the prosecution has failed to conclusively establish the age of the prosecutrix as being below 18 years in accordance with the statutory mandate. The reliance placed upon the school admission register (Exhibit P-13C) and Class VII marksheet (Exhibit P-27) is stated to be

legally impermissible, as the same do not satisfy the evidentiary requirements contemplated under Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015. It is submitted that the teacher or the person who recorded the date of birth in the school register was not examined, and therefore, the said documents cannot be treated as conclusive proof of age. It is further urged that the prosecutrix herself, in her deposition, has created serious doubt regarding her age, as in paragraph 2 of her statement she claimed to be 14 years and 11 months old at the relevant time, whereas in paragraph 19 she expressed ignorance about the basis on which her date of birth was recorded in school records, thereby rendering the prosecution case doubtful on the crucial aspect of age determination. It is also contended that in absence of any reliable and legally admissible birth certificate or medical age determination test, the finding that the prosecutrix was a minor is based merely on conjecture, and therefore, conviction under Section 6 of the POCSO Act, 2012 as well as under Sections 376(2)(d) and 376(3) of the Indian Penal Code cannot be sustained in law.

- 20.** It is submitted by Mr. Roy that there is unexplained and inordinate delay in lodging the FIR, which has not been satisfactorily accounted for by the prosecution. The explanation offered that the prosecutrix was advised by a doctor regarding irregular menstrual cycle is wholly insufficient and does not inspire confidence, thereby materially weakening the prosecution case. It is also

argued that the circumstances under which the prosecutrix allegedly came to know about her pregnancy at an advanced stage of 27 weeks, and that too only upon medical advice, renders her version doubtful and indicates that the prosecution story has been developed and improved upon subsequently under influence or pressure, rather than being a truthful narration of events. It is further pointed out that the mother of the prosecutrix (PW-02), in paragraph 25 of her deposition, has admitted that the admission of the prosecutrix in school was done by her father and she had no knowledge regarding the recording of date of birth in the school records, which further weakens the prosecution reliance on school documents. Moreover, no birth certificate has been produced on record to substantiate the age of the prosecutrix, despite the same being the best evidence available, and yet the learned trial Court has erroneously relied upon secondary school records to hold that the prosecutrix was a minor. He therefore, submits that the prosecution has failed to discharge the burden of proving the foundational facts, particularly the age of the prosecutrix and the credibility of her testimony, and consequently, the conviction recorded by the learned trial Court is unsustainable in law and deserves to be set aside.

21. In support of his submissions, reliance has been placed upon the judgment of the Hon'ble Supreme Court in ***Karandeep Sharma @ Razia @ Raju v. State of Uttarakhand, 2025 INSC 444***, particularly paragraphs 39, 40, 48, 49, 51, 53 and 55, wherein the

Hon'ble Supreme Court has elaborately dealt with the evidentiary standards required for proving age in POCSO cases and the necessity of strict adherence to statutory provisions while determining minority. Further reliance is also placed upon the judgment of this Court in ***Kamlesh Netam v. State of Chhattisgarh***, passed in ***CRA No. 1073 of 2022***, decided on ***08.08.2023***, to contend that conviction cannot be sustained when the age of the victim is not proved in accordance with law and the evidence is doubtful.

22. Per contra, Ms. Anusha Naik, learned Deputy Government Advocate, appearing for the State, opposes the submissions advanced by learned counsel for the appellant and submits that the impugned judgment of conviction and sentence passed by the learned trial Court is just, proper and based upon a correct appreciation of evidence on record, and does not call for any interference by this Court. It is submitted that the prosecution has been able to prove its case beyond reasonable doubt through consistent, cogent and reliable evidence. The prosecutrix (PW-01) has fully supported the prosecution case in her deposition before the Court as well as in her statement recorded under Section 164 Cr.P.C., wherein she has clearly and categorically narrated the entire incident of sexual assault committed by the appellant. It is contended that her testimony is natural, trustworthy and inspires full confidence, and there is no material contradiction or improvement which would render her evidence unreliable.

- 23.** It is submitted by Ms. Naik that the version of the prosecutrix finds strong corroboration from the medical evidence on record, particularly Exhibit P-11, which establishes that she was pregnant at the relevant time. The subsequent birth of the child and the DNA report (Exhibit P-49) conclusively establish that the appellant is the biological father of the child born to the prosecutrix, thereby fully corroborating the prosecution case regarding sexual relations between the parties. It is further argued that the contention of the appellant regarding alleged inconsistencies in the testimony of the prosecutrix is misconceived and without substance, as minor variations, if any, are natural and do not go to the root of the prosecution case. It is submitted that the core version of the prosecutrix has remained intact and unshaken during cross-examination.
- 24.** On the issue of age, it is submitted that the prosecution has duly proved that the prosecutrix was a minor at the time of incident. The date of birth recorded in the school admission register (Exhibit P-13C) and supported by the marksheet (Exhibit P-27) clearly establishes that she was below 18 years of age at the relevant time. It is submitted that such school records are admissible and have been duly proved through PW-04, the competent school official, and therefore there is no legal infirmity in relying upon the same. It is further contended that the argument regarding non-production of birth certificate is of no consequence in view of the settled law that school records, duly proved, are

relevant and sufficient for determination of age. It is further submitted that the contention regarding delay in lodging the FIR is also without merit, as the prosecution has offered a plausible and satisfactory explanation that the prosecutrix was under fear and trauma due to continuous threats extended by the appellant, and therefore she could not disclose the incident immediately. It is submitted that in cases of sexual offences, particularly involving minors, delay in reporting the matter cannot be viewed with suspicion as the victim is often under psychological pressure and social stigma.

- 25.** It is contended by Ms. Naik that the defence taken by the appellant is a bald denial without any supporting evidence, and no defence witness or documentary evidence has been adduced to discredit the prosecution case. The statement of the appellant under Section 313 Cr.P.C. is a mere denial and does not inspire confidence. She further submits that the learned trial Court has carefully appreciated the entire evidence on record in its proper perspective and has rightly recorded findings of guilt against the appellant. It is submitted that no perversity or illegality has been demonstrated in the impugned judgment so as to warrant interference by this Court in appellate jurisdiction. As such, the appeal, being devoid of merit, deserves to be dismissed.
- 26.** We have heard learned counsel for the parties at length, considered their rival submissions made herein-above, and

carefully perused the entire record of the case with utmost circumspection.

27. Upon a careful scrutiny of the pleadings, oral testimonies of the witnesses, documentary exhibits brought on record, as well as the impugned judgment passed by the learned trial Court, it appears that the prosecution case rests primarily on the testimony of the prosecutrix (PW-01), which is sought to be corroborated by medical evidence, documentary records relating to age, and scientific evidence in the form of DNA report (Exhibit P-49).

### **POINTS FOR DETERMINATION**

28. According to the prosecution case as well as the rival submissions advanced by learned counsel for the parties, the following points arise for determination before this Court:

(i) Whether the victim was below 18 years of age at the time of the incident and thus falls within the definition of “child” under Section 2(d) of the POCSO Act, 2012?

(ii) Whether the victim was below 16 years of age at the time of the incident so as to attract the aggravated provisions under the Indian Penal Code as alleged by the prosecution?

(iii) Whether the accused committed penetrative sexual assault/rape upon the victim on 15.01.2020 at about 11:00

a.m. and thereafter continued the same for about seven to eight months?

(iv) Whether the accused committed aggravated penetrative sexual assault upon the victim, who was a minor child at the relevant time, as contemplated under the provisions of the POCSO Act and Section 376 IPC?

(v) Whether the accused extended criminal intimidation to the victim by threatening to kill her and her parents on 15.01.2020 and thereafter on subsequent occasions?

(vi) Whether the prosecution has proved its case beyond reasonable doubt so as to warrant conviction of the accused, or whether the accused is entitled to acquittal?

(vii) Whether the impugned judgment of conviction and sentence passed by the learned trial Court suffers from any illegality, perversity or misappreciation of evidence warranting interference in appeal?

### **REASONS AND FINDINGS**

- 29.** For the sake of convenience and to avoid repetition of evidence, Points No.(i) and (ii) are being taken up together, as both relate to determination of the age of the victim.
- 30.** When a person is charged for the offence punishable under the POCSO Act, or for rape punishable in the Indian Penal Code, the age of the victim is significant and essential ingredient to prove

such charge and the gravity of the offence gets changed when the child is below 12 years, 12 years and more than 12 years. Section 2(d) of the POCSO Act defines the “child” which means any person below the age of eighteen years.

31. In ***Jarnail Singh Vs. State of Haryana, (2013) 7 SCC 263***, the Hon’ble Supreme Court laid down the guiding principles for determining the age of a child, which read as follows:

*“22. On the issue of determination of age of a minor, one only needs to make a reference to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as the 2007 Rules). The aforesaid 2007 Rules have been framed under Section 68(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000. Rule 12 referred to hereinabove reads as under :*

*“12. Procedure to be followed in determination of Age.? (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.*

*(2) The court or the Board or as the case may be the Committee shall decide the*

*juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.*

*(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining –*

*(a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;*

*(ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;*

*(iii) the birth certificate given by a corporation or a municipal authority or a panchayat;*

*(b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered*

*necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.*

*and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.*

*(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act and these rules and a copy of the order shall be given to such juvenile or the person concerned.*

*(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or*

*any other documentary proof referred to in sub-rule (3) of this rule.*

*(6) The provisions contained in this rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub- rule(3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law.”*

*23. Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime. Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the prosecutrix VW-PW6. The manner of determining age conclusively, has been expressed in sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a*

*preceding clause, it has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would conclusively determine the age of a minor. In the scheme of Rule 12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion.”*

- 32.** Section 2(d) of the POCSO Act unequivocally defines a “child” as any person who has not completed eighteen years of age. The legislative intent underlying the said provision is to afford the

widest possible protection to persons below the age of majority from sexual exploitation and abuse. Thus, for invocation of the provisions of the POCSO Act, the foundational requirement is that the prosecution must satisfactorily establish that the victim was below eighteen years of age on the date of occurrence. Likewise, in the present case, the prosecution has also projected the age of the victim as below sixteen years for the purposes of attracting aggravated penal consequences under the Indian Penal Code, as it then stood, thereby making the determination of age a crucial and determinative issue.

- 33.** In order to discharge this burden, the prosecution has placed reliance upon documentary evidence, particularly the admission-cum-withdrawal register of the concerned educational institution, which has been exhibited as Ex.P-13C, and the Class VII marksheet/progress report, exhibited as Ex.P-27. Both these documents consistently record the date of birth of the victim as 04.10.2005. The said documentary evidence has been pressed into service by the prosecution as primary proof of age, contending that the same constitutes contemporaneous educational record maintained in the ordinary course of school administration.
- 34.** The relevant entry in the admission register has been duly proved through the testimony of PW-04, who is the official custodian of the school records. PW-04 has categorically deposed that the

victim was admitted in Class III in the said institution and, at the time of admission, her date of birth was recorded as 04.10.2005 in the admission register maintained by the school. The witness has further identified both the original register as well as its certified copy exhibited on record. However, during his cross-examination, PW-04 has fairly conceded that he was not personally present at the time of admission of the victim and was not aware of the primary documents produced at that time. This admission, though not demolishing the evidentiary value of the record, does necessitate cautious scrutiny of the entry, particularly in the absence of foundational documents such as birth certificate or municipal record.

35. At this stage, it is well settled in law that school records, though relevant under the Evidence Act, do not carry conclusive evidentiary value by themselves unless they are shown to be based on reliable primary documents and are duly proved in accordance with law. The probative value of such entries depends upon the manner of their preparation, the source of information on which they are based, and the corroborative evidence available on record. In cases where birth registration records are not produced, courts are required to assess school records with greater circumspection.
36. In this regard, the law laid down by the Hon'ble Supreme Court in ***Rishipal Singh Solanki v. State of U.P., (2022) 8 SCC 602,***

assumes significance, wherein it has been held that there is no rigid or straightjacket formula for determination of age, and that the court must evaluate the entire evidence available on record, both documentary and oral, depending upon the facts and circumstances of each case. It has further been emphasized that the standard of proof in criminal proceedings requires the prosecution to establish its case beyond reasonable doubt, and age determination must be based on a holistic appreciation of evidence.

- 37.** In the present case, the documentary evidence is not standing in isolation. The prosecution has further fortified its case through oral testimony of PW-01, the victim herself, who has unequivocally stated her date of birth as 04.10.2005. Though the testimony of a victim regarding her own date of birth is not conclusive by itself, it certainly assumes corroborative value when it aligns with contemporaneous official records. PW-01 has withstood cross-examination on this aspect and nothing material has been elicited to discredit her version.
- 38.** Similarly, PW-02, who is the mother of the victim and a natural witness to her birth and upbringing, has also categorically supported the prosecution version regarding the date of birth of the victim. Her deposition carries substantial weight, being that of a close and competent family member having personal knowledge of the victim's birth details. Importantly, her testimony has

remained consistent and unshaken during cross-examination, and no suggestion has been put to her to dispute the correctness of the date of birth as stated by her. Further corroboration emerges from the testimony of PW-08, the Investigating Officer, who has proved the seizure of the Class VII progress report (Ex.P-27) during the course of investigation. The said document also reflects the same date of birth, i.e. 04.10.2005, thereby lending additional assurance to the consistency of the prosecution evidence. It is also significant that during the course of cross-examination of any of the prosecution witnesses, no serious suggestion has been put forth by the defence to the effect that the recorded date of birth is incorrect, manipulated, or subsequently inserted with any ulterior motive.

- 39.** What is further noteworthy is the complete absence of any rebuttal evidence from the defence side. The accused has neither examined any witness nor produced any documentary evidence to contradict the prosecution version regarding the age of the victim. In criminal jurisprudence, while the burden primarily lies upon the prosecution, the failure of the defence to rebut consistent and corroborated prosecution evidence, particularly on a crucial issue like age, strengthens the evidentiary chain relied upon by the prosecution.
- 40.** On a cumulative appreciation of the entire evidence on record, both oral as well as documentary, this Court finds that the date of

birth of the victim as 04.10.2005 stands established beyond reasonable doubt. If the same is computed with reference to the date of incident, i.e. 15.01.2020, it clearly emerges that the victim was approximately 14 years, 3 months, and 11 days old at the time of the alleged occurrence. This age categorically places the victim within the definition of a “child” under Section 2(d) of the POCSO Act.

- 41.** Consequently, it is held that the prosecution has successfully discharged its burden of proving that the victim was below eighteen years of age at the relevant time. Further, in view of the age so determined, the assertion of the prosecution that the victim was also below sixteen years of age stands duly substantiated on the basis of the same evidence.
- 42.** Accordingly, both Points No.(i) and (ii) are answered in the affirmative, holding that the victim was a minor child within the meaning of law at the time of the incident, thereby attracting the applicability of the POCSO Act and the relevant penal provisions as invoked by the prosecution.
- 43.** This Court shall deal with Points No. (iii) to (vi) together, as they arise out of a common factual matrix and are based upon interlinked oral and documentary evidence led by the prosecution. In order to avoid repetition of evidence, a consolidated appreciation is being undertaken.

- 44.** At the outset, it is to be observed that the present case relates to allegations of aggravated sexual assault and repeated sexual exploitation of the victim, who is stated to be a minor at the relevant time. The entire prosecution case principally rests upon the testimony of the victim (PW-01), which is required to be examined with utmost care and circumspection, but at the same time, it is equally well settled that in cases of sexual offences, the testimony of the prosecutrix, if found trustworthy and reliable, can be the sole basis of conviction without requiring any further corroboration.
- 45.** The victim (PW-01) has given a detailed, consistent and natural account of the incident. She has deposed that the accused was earlier residing in proximity to her house as a tenant, and thereafter constructed his own house. Owing to this proximity, the victim, being a child, used to visit the house of the accused. On 15.01.2020, when she had gone to the house of the accused, his wife and children were present, however, they subsequently left the house. Taking advantage of the situation, the accused allegedly dragged her by force into a room on the ground floor, closed the door, made her lie on the bed, and committed forcible sexual intercourse against her will, despite her resistance and protest. PW-01 has further deposed that immediately after the incident, the accused threatened her with dire consequences, stating that if she disclosed the incident to anyone, including her parents, he would kill her and her family members. Due to such

grave threats and fear, the victim did not disclose the incident immediately. Her testimony further reveals that the accused thereafter continued to sexually exploit her for a period of about seven months, thereby establishing a continuous course of sexual abuse under coercion and intimidation. This aspect of repeated assault lends strong credibility to her version and clearly rules out any possibility of a false or concocted implication.

- 46.** The victim (PW-01) has further stated that in April 2020 she was taken to Shubhkamna Hospital as her menstrual cycle had stopped. On medical examination and sonography, she was found to be approximately 27 weeks pregnant. The victim has categorically stated that she disclosed to the doctor and subsequently to her family that the pregnancy was the result of repeated sexual relations forced upon her by the accused. Ultimately, she gave birth to a female child on 20.11.2020 at SIMS Medical College, and thereafter DNA samples were collected by the investigating agency. Importantly, the testimony of PW-01 has remained consistent during her cross-examination. The defence has not been able to extract any material contradiction, omission or improvement which would shake the core of her testimony. The suggestions put to her regarding false implication on account of alleged disputes were specifically denied. There is nothing on record to suggest any motive for false implication, nor has any improbability been demonstrated in her version.

- 47.** The testimony of PW-02, the mother of the victim, lends substantial corroboration to the version of PW-01 and reinforces the prosecution narrative in a material and credible manner. PW-02 has categorically stated that she had no knowledge whatsoever of the incident at the initial stage, and that the alleged acts of sexual assault remained concealed from her until such time as the victim's pregnancy was detected during medical examination. This aspect of her testimony is significant, as it demonstrates that the disclosure of the incident was not immediate or prompted by external influence, but rather surfaced only upon the emergence of an objective and medically verifiable circumstance, thereby lending an element of spontaneity and authenticity to the subsequent disclosure.
- 48.** PW-02 has further deposed that upon coming to know about the pregnancy, she made enquiries from the victim, whereupon the victim disclosed in detail the entire sequence of events constituting sexual assault and repeated exploitation at the hands of the accused. The witness has specifically stated that the victim narrated how she had been subjected to forcible sexual acts by the accused on multiple occasions, accompanied by threats and intimidation, which prevented her from disclosing the matter earlier. This testimony of PW-02, therefore, not only corroborates the occurrence of the incident but also supports the prosecution case regarding the continuing nature of the offence and the element of coercion exercised by the accused over the victim.

- 49.** Significantly, PW-02 has also supported the prosecution version regarding the repeated sexual exploitation and the threats allegedly extended by the accused to the victim to silence her. Her deposition indicates that the victim was under a sustained state of fear and psychological pressure, which explains the delay in disclosure. Importantly, her testimony has remained consistent and unshaken during cross-examination. The defence has not been able to elicit any material contradiction, omission, or improvement which could adversely affect the credibility of her version or dilute its evidentiary value. Furthermore, no plausible motive has been suggested or established on behalf of the defence to indicate any reason for false implication of the accused. The absence of any animus or prior enmity between the parties further strengthens the evidentiary worth of PW-02's testimony. In the totality of circumstances, her evidence operates as strong corroborative support to the testimony of PW-01 and fortifies the prosecution case on material particulars.
- 50.** The medical evidence adduced through PW-06, Dr. Prachi Baranwal, assumes great evidentiary significance in the present case, as it provides an objective, scientific and clinically verifiable foundation to the prosecution narrative. PW-06, who was posted as an Obstetrician and Gynaecologist at Shubhkamna Hospital, has categorically deposed that the victim first approached the hospital in May 2020 with complaints of amenorrhea, i.e., absence

of menstrual cycle. Upon clinical examination, she was prescribed necessary medication and advised follow-up.

- 51.** Thereafter, PW-06 has further deposed that on 12.09.2020, the victim again visited the hospital along with her mother, whereupon sonography was conducted. The ultrasound examination revealed that the victim was approximately 27 weeks pregnant at that time. The said finding has been duly recorded in the medical documents proved on record, which clearly indicate advanced stage of pregnancy corresponding to a gestation period of about six to seven months.
- 52.** The significance of this medical evidence lies in the fact that it is not based on subjective narration or perception, but on scientific investigation through ultrasound imaging, which is widely accepted in medical jurisprudence as a reliable method for determining pregnancy and its duration. Thus, the medical evidence lends strong corroboration to the prosecution case that the victim was subjected to sexual intercourse during the relevant period, which resulted in pregnancy. When this medical finding is read in conjunction with the testimony of PW-01, it lends substantial assurance to her version that the accused had repeated sexual intercourse with her over a prolonged period. The timing of pregnancy, as medically established, fits squarely within the period narrated by the victim in her deposition, thereby reinforcing the continuity and probability of the prosecution story.

- 53.** The testimony of PW-06 is also wholly independent, neutral, and devoid of any animus or bias against the accused. She is a professional medical witness who had examined the victim in the ordinary course of her duties, and nothing has been brought on record in her cross-examination to discredit her testimony. No material contradiction, inconsistency, or procedural irregularity has been elicited which could cast any doubt on the genuineness of her deposition or the authenticity of the medical findings recorded by her. Her evidence has withstood the test of cross-examination and remains unshaken on material particulars. It is also pertinent that her testimony is supported by contemporaneous medical records prepared during examination of the victim, which further enhances its credibility and evidentiary value.
- 54.** In this context, it is well settled that medical evidence, though ordinarily corroborative in nature, assumes greater significance when it fully supports the ocular testimony of the prosecutrix. In the present case, the evidence of PW-06 not only corroborates the version of PW-01 but also rules out the possibility of any alternate hypothesis regarding the cause of pregnancy.
- 55.** Thus, the medical evidence adduced by PW-06 operates as a strong and independent corroborative link in the chain of prosecution evidence, reinforcing the truthfulness of the victim's account and lending further assurance to the findings recorded on the basis of her testimony.

- 56.** Upon a careful and holistic appreciation of the entire evidence brought on record, particularly the testimonies of PW-01 (victim), PW-02 (mother of the victim), and PW-06 (Dr. Prachi Baranwal), this Court finds that the prosecution case rests on a firm, consistent, and trustworthy evidentiary foundation. The victim (PW-01) has given a detailed, spontaneous, and natural account of the incident, narrating not only the initial act of forcible sexual assault committed on 15.01.2020, but also the subsequent repeated sexual exploitation spread over a period of about seven months under threat and coercion by the accused, who was residing in close proximity to her house. Her testimony further establishes that due to continuous threats of dire consequences extended by the accused, she was compelled to remain silent for a considerable period.
- 57.** The said version of PW-01 is duly corroborated by PW-02, her mother, who has consistently deposed that she came to know about the incident only upon detection of the victim's pregnancy during medical examination, whereafter the victim disclosed the entire sequence of sexual assault committed by the accused. PW-02 has further supported the prosecution case regarding the threats and repeated sexual exploitation, and her testimony has remained unshaken in cross-examination.
- 58.** The ocular evidence is further strengthened by the medical evidence of PW-06, Dr. Prachi Baranwal, who has categorically

stated that the victim was found to be approximately 27 weeks pregnant upon sonography conducted in September 2020, thereby objectively corroborating the fact of sexual intercourse during the relevant period. The medical evidence, being scientific in nature, lends independent assurance to the prosecution version and fortifies the credibility of the ocular testimony.

59. Importantly, the defence has failed to bring on record any material contradiction, omission, or improvement in the testimonies of the prosecution witnesses so as to discredit their version. No plausible motive for false implication has been either suggested or established. The evidence, when read in its entirety, forms a complete chain which is consistent with the prosecution story and excludes any reasonable hypothesis of innocence of the accused.
60. It is well settled in law that in cases of sexual offences, the sole testimony of the victim, if found to be cogent, reliable, and trustworthy, can form the basis of conviction without insisting upon further corroboration. In the present case, however, the testimony of PW-01 does not stand in isolation; rather, it is duly reinforced by the consistent testimony of PW-02 and the unimpeached medical evidence of PW-06, thereby rendering the prosecution case even more credible and impregnable.
61. In the case of ***Ganesan v. State, (2020) 10 SCC 573***, the Supreme Court observed and held that that there can be a conviction on the sole testimony of the victim/prosecutrix when the

deposition of the prosecutrix is found to be trustworthy, unblemished, credible and her evidence is of sterling quality.

- 62.** In the case of ***State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575***, it was observed and held that as a general rule, if credible, conviction of accused can be based on sole testimony, without corroboration. It was further observed and held that sole testimony of prosecutrix should not be doubted by court merely on basis of assumptions and surmises.
- 63.** In the case of ***Sham Singh v. State of Haryana, (2018) 18 SCC 34***, the Supreme Court observed that testimony of the victim is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement, the courts should find no difficulty to act on the testimony of the victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. It was further observed that seeking corroboration of her statement before relying upon the same, as a rule, in such cases amounts to adding insult to injury.
- 64.** Applying the law laid down by the Supreme Court to the facts of the case on hand and as observed hereinabove, we see no reason to doubt the credibility and/or trustworthiness of the victim. She is found to be reliable and trustworthy. Accordingly, for the reasons recorded hereinabove and upon appreciation of the entire oral and documentary evidence on record, this Court holds that the prosecution has been able to successfully establish its case

beyond reasonable doubt. The testimonies of PW-01 (victim), PW-02 (mother of the victim), and PW-06 (doctor) are found to be cogent, consistent, and duly corroborative of each other, and no material contradiction or infirmity has been brought out in their cross-examination so as to discredit the prosecution version.

- 65.** The defence has also failed to probabalise its case or to create any reasonable doubt in the prosecution story. The evidence on record clearly establishes the occurrence of the incident, the involvement of the accused, as well as the commission of repeated sexual assault upon the victim under coercion and threat.
- 66.** In view of the foregoing discussion, Points No.(iii) to (vi) are hereby answered in the affirmative, in favour of the prosecution and against the accused.
- 67.** So far as Point for Determination No. (vii) is concerned, upon careful scrutiny of the entire evidence available on record as well as the findings recorded by the learned trial Court, this Court does not find any illegality, perversity or material irregularity in the impugned judgment warranting interference in the present appeal. The learned trial Court has meticulously appreciated the evidence of PW-01 (victim), PW-02 (mother of the victim), PW-06 (medical expert), and other witnesses in their proper perspective and has rightly arrived at the conclusion of guilt of the appellant/accused.
- 68.** The appreciation of evidence by the learned trial Court is found to be sound, cogent and in consonance with settled principles of law.

The testimony of the victim has been found to be natural, consistent and trustworthy, which stands duly corroborated by the medical evidence as well as the testimony of her mother. No material contradiction, omission or improbability has been demonstrated by the defence so as to discredit the prosecution version or to suggest that the findings recorded by the trial Court are perverse or based on misreading of evidence.

- 69.** It is equally well settled that interference in appeal is warranted only when the findings of the trial Court are shown to be perverse, manifestly illegal or based on gross misappreciation of evidence, which is not the case herein. The learned trial Court has considered all relevant aspects and has recorded well-reasoned findings based on proper appreciation of evidence.
- 70.** In view of the aforesaid, this Court is of the considered opinion that the impugned judgment of conviction and sentence does not suffer from any illegality, perversity or misappreciation of evidence and does not call for any interference in exercise of appellate jurisdiction. Accordingly, Point for Determination No. (vii) is answered in the negative, i.e., against the appellant and in favour of the prosecution.
- 71.** This Court has also bestowed its anxious consideration to the judgments relied upon by learned counsel for the appellant, particularly ***Karandeep Sharma @ Razia @ Raju*** (supra) and ***Kamlesh Netam*** (supra). However, upon a careful

examination, this Court finds that the said judgments are clearly distinguishable on facts as well as on the evidentiary matrix involved therein. In ***Karandeep Sharma*** (supra), the Hon'ble Supreme Court had interfered with the conviction primarily on account of failure of the prosecution to establish the age of the prosecutrix in accordance with the statutory mandate, coupled with absence of reliable and cogent corroborative evidence.

- 72.** Similarly, in ***Kamlesh Netam*** (supra), this Court found serious infirmities in the prosecution case, including lack of trustworthy evidence and deficiencies in proving the foundational facts necessary to sustain conviction.
- 73.** In contradistinction, in the present case, the prosecution has not only established the age of the victim through consistent and corroborated documentary as well as oral evidence, but has also fortified its case by unimpeachable medical and scientific evidence. The sonography report clearly establishes that the victim was pregnant during the relevant period, and the DNA report (Exhibit P-49) conclusively proves that the appellant is the biological father of the child born to the victim, thereby providing strong and clinching corroboration to the testimony of the prosecutrix. Furthermore, the testimony of the victim is found to be cogent, consistent, and trustworthy, and is duly corroborated by the testimony of her mother and the medical expert. No material contradiction or infirmity has been elicited in their cross-

examination. Thus, the evidentiary foundation in the present case stands on a much stronger and unimpeachable footing, clearly distinguishing it from the cases relied upon by the appellant. Consequently, the ratio laid down in the aforesaid judgments does not come to the aid of the appellant and is inapplicable to the facts of the present case.

- 74.** Considering the overall facts and circumstances of the case, upon careful appreciation of the entire evidence of PW-01 (victim), PW-02 (mother), and PW-06 (doctor), this Court finds that the prosecution case rests on a strong, consistent, and well-corroborated evidentiary foundation. The testimony of the victim is natural, coherent, and inspires full confidence of this Court. She has given a detailed and consistent account of the initial incident of forcible sexual assault committed on 15.01.2020, followed by repeated sexual exploitation over a prolonged period of about seven to eight months under intimidation and coercion. Her version has remained consistent throughout and does not suffer from any material contradiction or embellishment.
- 75.** The evidence of PW-02, the mother of the victim, lends strong corroboration to the prosecution case. She has clearly stated that she was initially unaware of the incident and came to know about it only when the victim was found pregnant during medical examination. Upon enquiry, the victim disclosed the entire sequence of sexual assault committed by the accused. The

testimony of PW-02, being natural and spontaneous, rules out any possibility of false implication and further strengthens the credibility of the prosecution version.

- 76.** The prosecution case is further fortified by the testimony of PW-06, the medical officer, who has categorically proved that the victim was found pregnant at the relevant time with corresponding gestational age, thereby providing scientific corroboration to the ocular testimony of the victim. The medical evidence, thus, supports the occurrence of sexual intercourse during the relevant period and corroborates the prosecution story in material particulars. No material contradiction, omission, or improvement has been elicited in the cross-examination of the prosecution witnesses so as to discredit their testimony. The defence has also failed to establish any plausible motive for false implication of the accused. On the contrary, the evidence on record forms a complete and consistent chain pointing unerringly towards the guilt of the accused.
- 77.** It is well settled that in cases of sexual offences, particularly where the victim is a minor, the sole testimony of the prosecutrix, if found to be reliable and trustworthy, can be made the basis of conviction without requiring independent corroboration. In the present case, the testimony of PW-01 is not only credible but is also duly corroborated by PW-02 and PW-06, thereby inspiring full confidence of this Court.

- 78.** Upon a comprehensive consideration of the overall facts and circumstances of the case, this Court is of the considered view that the learned trial Court has rightly appreciated the evidence in its proper perspective and has recorded findings of conviction on a sound and well-reasoned basis. The impugned judgment does not suffer from any illegality, perversity, or misappreciation of evidence. No jurisdictional error or material irregularity has been shown which would warrant interference in appellate jurisdiction. Accordingly, the findings recorded by the learned trial Court are hereby affirmed.
- 79.** Accordingly, the appeal being devoid of merit is liable to be and is hereby **dismissed**.
- 80.** The appellant/convict is stated to be in jail since 13.09.2020. He shall serve out the sentence awarded by the trial Court by means of the impugned judgment of conviction and order of sentence dated 29.05.2025.
- 81.** Registry is directed to send a copy of this judgment to the concerned Superintendent of Jail where the appellants are undergoing their jail sentence to serve the same on the appellants informing them that they are at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

- 82.** Let a certified copy of this order alongwith the original record be transmitted to trial Court concerned forthwith for necessary information and action, if any.

**Sd/-**  
**(Ravindra Kumar Agrawal)**  
**Judge**

**Sd/-**  
**(Ramesh Sinha)**  
**Chief Justice**

Anu

**Head-Note**

Testimony of the victim is vital, and unless compelling reasons exist necessitating corroboration, the Court may safely act upon the testimony of the victim of sexual assault alone to convict an accused where it inspires confidence and is found to be reliable, particularly when it is duly strengthened by corroborative medical evidence indicating pregnancy during the relevant period and further supported by DNA analysis of the child, lending scientific assurance to the prosecution version.