



CGHC010005632026



2026:CGHC:31145-DB

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 113 of 2026

Jeetu Patel @ Jitendra S/o Rajesh Patel Aged About 35 Years R/o Bhim Nagar, Bandri, Near Kabadi Ward No. 10, Supela, Bhilai, District Durg, Chhattisgarh.

... Appellant

versus

State Of Chhattisgarh Through Station House Officer, Police Station Supela, District Durg, Chhattisgarh.

... Respondent

For Appellant : Mr.Bharat Lal Lonia, Advocate

For Respondent : Mr.S.S.Baghel, Government Advocate

Hon'ble Shri Justice Ramesh Sinha, Chief Justice and

Hon'ble Shri Justice Ravindra Kumar Agrawal, Judge

Judgment on Board

Per Ramesh Sinha, CJ

22/07/2026

1. Notice issued to the mother of the victim has been duly served upon her. However, despite service of notice, no one has appeared on her behalf to contest the present application for suspension of sentence and grant of bail or the criminal appeal.

2. Since the appellant is in jail since 4.8.2024 this Court proceeds to hear the appeal finally.
3. This criminal appeal arises out of the judgment of conviction and order of sentence dated 31.10.2025 passed by the Additional Sessions Judge, Fourth F.T.S.C. Special Court, Durg in Special Criminal (POCSO) Case No.107/2024, whereby the appellant has been convicted for offence under Sections 64(2)(f) & 65(1) of the Bharatiya Nyaya Sanhita, 2023 (hereinafter called as "BNS") and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter called as "POCSO Act") and sentenced to undergo RI for twenty years and fine of Rs.1000/-, in default of payment of fine to further undergo RI for one year.
4. The prosecution story, in brief, is that on 31.07.2024, the victim's mother (PW-) submitted a written report (Ex.P-6) to the Supela Police Station stating that she has three children and she works as a sweeper, mop and rag picker. On 31.07.2024, when she returned from work at 3 P.M., her elder daughter, the victim, aged 13 years, came crying. When she asked the victim what was the matter, her second daughter, aged 9 years, said that her father had committed indecent acts with her by stuffing a cloth in her mouth in the afternoon. When she asked the victim, she said that when she was sleeping at home at 2 P.M., her father forcibly pulled her towards him, removed her upper clothes, half-opened

her leggings and raped her. When she started screaming, a cloth was stuffed in her mouth, so she could not scream.

5. On the basis of complaint (Ex.P-6), First Information Report (Ex.P-7) was registered at Police Station Mohan Nagar and the case was taken up for investigation. During the investigation on 31.07.2024, when the mother/complainant of the victim produced the blue coloured leggings worn by the victim at the time of the incident, the same was seized in front of the witnesses as per seizure memo Ex.P-9. On the same date 31.07.2024, a written complaint (Ex.P-22) was sent to the Judicial Magistrate First Class, Durg for recording the Court statement of the victim and her statement was recorded vide Ex.P-1. On the same date, written complaint Ex.P-23 and Ex.P-24 were sent to the Government Hospital, Supela for examination of the private parts of the victim and examination of the leggings worn by the victim at the time of the incident and report was given. As per MLC report (Ex.P-18), hymen ruptured, 2 slides of vaginal smear made for swab test which is sealed packed & handed over to same pc for chemical analysis. The doctor has opined that definite opinion cannot be given about rape. On 31.07.2024 itself, the statement of the victim, the victim's mother, witness Janaki and on 01.08.2024, the statement of the victim's younger sister was recorded. On 01.08.2024, a site map Ex.P-2 was prepared as per the information given by the victim and the complainant. On the same date 01.08.2024, on the victim's indication, an old yellow printed

sheet was seized from the spot in front of witnesses as per seizure memo Ex.P-21. On the same date, when lady constable Deepti Chandrakar No. 682 brought two vaginal slides of the victim in a sealed packet from Government Hospital Supela and presented them, the same were seized as per seizure memo Ex.P-10.

6. In the course of investigation, on 02.08.2024, complaint Ex.P-29 was sent to the Additional Tehsildar, Bhilai Nagar for providing the Patwari map of the incident site and Patwari map Ex.P-3 was obtained. X-ray test of the victim was conducted to determine her age and report Ex.P-15 was obtained. When accused Jeetu produced his lower worn at the time of the incident, it was seized in front of witnesses as per seizure memo Ex.P-20. On 03.08.2024, FIR Ex.P-25 and Ex.P-26 were sent for providing report after conducting masculinity test of accused Jeetu Patel and examining the underwear seized from him and reports Ex.P-16 and Ex.P-17 were obtained. On 04.08.2024, when accused Jeetu Patel was found to have committed the crime, he was arrested in front of witnesses and arrest sheet Ex.P-27 was prepared and information about the arrest was given to the family of the accused vide Ex.P-28. Statements of other witnesses were recorded in the case. The seized exhibits/materials in the case were sent through the Superintendent of Police, Durg to the Regional Forensic Science Laboratory, Bhilai for chemical testing

vide Ex.P-34. After a thorough investigation, a charge sheet was presented against the accused in the jurisdictional Court.

7. Upon reading the charges to the appellant / accused, the appellant / accused denied the crime and sought a defence. In his statement, he has denied all the facts except one and has pleaded innocence.
8. The prosecution has led the evidence of the victim (PW-1), the victim's sister (PW-2), the victim's mother (PW-3), Dr.B.N. Dewangan (PW-4), Dr. A.K. Nagdeve (PW-5), Dr. Manju Rathore (PW-6), and Assistant Sub-Inspector Khushboo Verma (PW-7) in support of its case. In contrast, the accused has not presented any defence evidence.
9. After appreciation of evidence available on record, learned trial Court has convicted and sentenced the appellant as mentioned in para 3 of the judgment. Hence, this appeal.
10. Learned counsel for the appellant submitted that the impugned judgment suffers from errors in appreciation of the facts and evidence available on record. It was contended that the learned trial Court did not properly evaluate the material evidence before arriving at its findings. It was further submitted that the testimony of the material witness contains contradictions between the statement recorded during the investigation and the deposition before the learned trial Court. According to the appellant, these

inconsistencies were material and ought to have been carefully considered while assessing the prosecution case.

11. Learned counsel also submitted that the medical evidence does not conclusively support the prosecution's allegation. It was argued that the doctor who examined the victim recorded that no definite opinion regarding the allegation of rape could be given, and that this aspect was not given due weight by the learned trial Court. It was further argued that the report of the Regional Forensic Science Laboratory, Durg, records the detection of human sperm/semen on certain exhibits, including the appellant's lower garment, the victim's leggings, the victim's slides, and the bedsheet. Learned counsel submitted that the evidentiary value and implications of the forensic report required careful scrutiny in light of the entire evidence on record, and that the trial Court failed to appreciate the same in its proper perspective. It was lastly submitted that the learned trial Court misappreciated the facts and circumstances of the case and that the findings recorded are not sustainable in law. On these grounds, learned counsel for the appellant prayed that the impugned judgment be set aside.

12. Per contra, learned State counsel opposed the appeal and supported the impugned judgment. It was submitted that the learned trial Court has properly appreciated the oral, documentary, medical, and scientific evidence available on record and has recorded findings based on a correct appreciation of the

evidence. Learned State Counsel further submitted that the alleged contradictions in the statements of the prosecution witness are neither material nor of such a nature as to affect the core of the prosecution case. It was argued that the trial Court has duly considered the evidence in its entirety and has rightly found the testimony of the prosecution witnesses to be reliable.

- 13.** With regard to the medical evidence, learned State Counsel submitted that the absence of a definite medical opinion regarding rape is not by itself sufficient to discredit the prosecution case. It was contended that medical evidence is corroborative in nature and that where the other evidence on record inspires confidence, the prosecution case cannot be rejected merely because the medical expert was unable to express a conclusive opinion. Learned State Counsel also submitted that the report of the Regional Forensic Science Laboratory, Durg, indicates the presence of human sperm/semen on various exhibits, including the appellant's lower garment, the victim's leggings, the victim's slides, and the bedsheet. According to the State Counsel, the trial Court has duly considered the forensic evidence along with the remaining evidence on record while arriving at its conclusion. As such, the appeal deserves to be dismissed and the judgment of conviction and order of sentence be affirmed.

14. We have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
15. The first question for consideration before this Court would be, whether the trial Court is rightly held that on the date of incident, the victim was minor?
16. When a person is charged for offence punishable under the POCSO Act, or for rape punishable in the Indian Penal Code, the age of the victim is significant and essential ingredients to prove such charge and the gravity of the offence gets changed when the child is below 18 years, 12 years and more than 18 years. Section 2(d) of the POCSO Act defines the "child" which means any person below the age of eighteen years.
17. Rape has been defined in Section 375 of the IPC as follows :
- "375. Rape.--** A man is said to commit "rape" if he--
- (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or
- (b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

(c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

under the circumstances falling under any of the following seven descriptions:

First. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly. With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly. With or without her consent, when she is under eighteen years of age.

Seventhly. When she is unable to communicate consent.

Explanation 1. For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2. Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception 1. A medical procedure or intervention shall not constitute rape.

Exception 2. Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape."

18. In the present case, the prosecution has sought to establish the age of the victim by conducting a radiological examination. As per the radiological report (Ex.P-15), the age of the victim has been assessed to be between 13 and 14 years and since defence has not challenged the documentary evidence presented by the prosecution regarding the victim's age, it is established that the age of the victim on the date of incident is between 13 to 14

years. Thus, at the time of the incident, the victim is a minor girl below 18 years of age.

19. The next question for consideration before us is whether the appellant has committed rape on minor victim ?

20. The victim has been examined as PW-1. In para 2 of her statement, she stated that she has not attended school. She is currently 14 years old. She live at home with her mother and siblings. In para 3 of her statement, she stated that she do not remember the date of the incident. The incident occurred during the Hareli festival in 2024. She was sleeping with her siblings at home at around 2:00 P.M. when her stepfather, accused Jeetu Patel, pulled her towards him, took off her clothes, opened her leggings, and forcibly raped her. When she screamed, he stuffed a cloth in her mouth, preventing her from screaming. Her younger sister witnessed the incident. In para 7 of her cross-examination, she denied that her father did nothing wrong to her. She further denied that she did not tell her mother about the incident. She also denied that she is giving a statement today based on what her mother taught her.

21. Sister of the victim (PW-2) has stated in para 2 of her statement that her father had done wrong things with her sister. She had told this to her mother. At the time when her father (accused) was doing wrong things with my sister, her mother was not at home, she had gone to work. Her sister and she were alone at home. At

the time when both of them were at home, her father (accused) came home after drinking alcohol. Both of them were sleeping at home. Her father (accused) put a cloth in her sister's mouth while doing dirty things and when her father (the accused) was doing dirty things with her sister, he signaled her to keep quiet and said that if she made any noise, he would kill her.

22. The victim in her 164 CrPC statement (Ex.P-1) has stated that on the date of incident at around 2:00 P.M., she was sleeping with her younger sister at home while her mother had gone to work. Her stepfather, Jeetu Patel, pulled her into his bed, took off her clothes, and raped her. She started crying and screaming, then her father stuffed a cloth in her mouth and raped her again. She cried and said, “she will tell her mother everything”. Then her father threatened to beat her and her mother. She was terrified. She further stated that when her mother returned from work at 3:00 P.M., her younger sister told her that her stepfather, Jeetu Patel, had raped her. Her mother then questioned her and she told her about the entire incident. Around 5:00 P.M., her mother, and her younger siblings went to the Supella Police Station and lodged a report against her stepfather, Jeetu Patel, for raping her.

23. In the Indian society refusal to act on the testimony of the victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. A girl or a woman in the tradition bound non-

permissive society of India would be extremely reluctant even to admit that any incident which is likely to reflect on her chastity had ever occurred. She would be conscious of the danger of being ostracized by the society and when in the face of these factors the crime is brought to light, there is inbuilt assurance that the charge is genuine rather than fabricated. Just as a witness who has sustained an injury, which is not shown or believed to be self-inflicted, is the best witness in the sense that he is least likely to exculpate the real offender, the evidence of a victim of sex offence is entitled to great weight, absence of corroboration notwithstanding. A woman or a girl who is raped is not an accomplice. Corroboration is not the sine qua non for conviction in a rape case. The observations of Vivian Bose, J. in **Rameshwar v. The State of Rajasthan (AIR 1952 SC 54)** were:

“The rule, which according to the cases has hardened into one of law, is not that corroboration is essential before there can be a conviction but that the necessity of corroboration, as a matter of prudence, except where the circumstances make it safe to dispense with it, must be present to the mind of the judge...”.

- 24.** A victim of a sex-offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of

physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the Court must be conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels satisfied that it can act on the evidence of the victim. There is no rule of law or practice incorporated in the Indian Evidence Act, 1872 (in short 'Evidence Act') similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the Court is hesitant to place implicit reliance on the testimony of the victim it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the victim must necessarily depend on the facts and circumstances of each case. But if a victim is an adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is own to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case discloses that the victim does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.

25. The Supreme Court in the matter of **Ranjit Hazarika v. State of Assam, AIR 1998 SC 635** has held that the evidence of a victim of sexual assault stands almost on a par with the evidence of an

injured witness and to an extent is even more reliable. It must not be overlooked that a woman or a girl subjected to sexual assault is not an accomplice to the crime but is a victim of another person's lust and it is improper and undesirable to test her evidence with a certain amount of suspicion, treating her as if she were an accomplice.

26. The Supreme Court in the matter of **Rai Sandeep @ Deenu v. State of NCT of Delhi, 2012 (8) SCC 21** held as under:-

“22. In our considered opinion, the ‘sterling witness’ should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have correlation with each and everyone of other supporting

material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a 'sterling witness' whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

27. The Supreme Court in the matter of **Nawabuddin v. State of Uttarakhand, (2022) 5 SCC 419** has held as under:-

"17. Keeping in mind the aforesaid objects and to achieve what has been provided under Article 15 and 39 of the Constitution to protect children from the offences of sexual assault, sexual harassment, the POCSO Act, 2012 has been enacted. Any act of sexual assault or sexual harassment to the children should be viewed very seriously and all such offences of sexual assault, sexual harassment on the children have to be

dealt with in a stringent manner and no leniency should be shown to a person who has committed the offence under the POCSO Act. By awarding a suitable punishment commensurate with the act of sexual assault, sexual harassment, a message must be conveyed to the society at large that, if anybody commits any offence under the POCSO Act of sexual assault, sexual harassment or use of children for pornographic purposes they shall be punished suitably and no leniency shall be shown to them. Cases of sexual assault or sexual harassment on the children are instances of perverse lust for sex where even innocent children are not spared in pursuit of such debased sexual pleasure.

18. Children are precious human resources of our country; they are the country's future. The hope of tomorrow rests on them. But unfortunately, in our country, a girl child is in a very vulnerable position. There are different modes of her exploitation, including sexual assault and/or sexual abuse. In our view, exploitation of children in such a manner is a crime against humanity and the society. Therefore, the children and more particularly the girl child deserve full protection and need greater care and protection whether in the urban or rural areas.

19. As observed and held by this Court in **State of Rajasthan v. Om Prakash, (2002) 5 SCC 745**, children need special care and protection and, in such cases, responsibility on the shoulders of the Courts is more onerous so as to provide proper legal protection to these children. In **Nipun Saxena v. Union of India, (2019) 2 SCC 703**, it is observed by this Court that a

minor who is subjected to sexual abuse needs to be protected even more than a major victim because a major victim being an adult may still be able to withstand the social ostracization and mental harassment meted out by society, but a minor victim will find it difficult to do so. Most crimes against minor victims are not even reported as very often, the perpetrator of the crime is a member of the family of the victim or a close friend. Therefore, the child needs extra protection. Therefore, no leniency can be shown to an accused who has committed the offences under the POCSO Act, 2012 and particularly when the same is proved by adequate evidence before a court of law.”

28. Having considered the rival submissions advanced by learned counsel for the parties and upon careful scrutiny of the evidence available on record, we find that the prosecution has successfully established the age of the victim. The radiological report (Ex.P-15), which has remained unchallenged by the defence, indicates that the age of the victim was between 13 and 14 years on the date of the incident. Thus, the victim was a child within the meaning of Section 2(d) of the POCSO Act, 2012.

29. So far as the occurrence of the incident is concerned, the testimony of the victim (PW-1) is consistent and cogent with regard to the material particulars of the prosecution case. She has categorically narrated the manner in which the incident took place and has attributed the act to the appellant. Her statement recorded under Section 164 CrPC (Ex.P-1) is also consistent with her deposition before the Court. The evidence of the victim finds

further support from the testimony of her younger sister (PW-2), who has stated about witnessing the incident and informing their mother thereafter.

30. The contention of learned counsel for the appellant that there are contradictions in the statements of the prosecution witnesses does not persuade this Court. On careful examination of the evidence, the alleged inconsistencies are found to be minor in nature and do not affect the core of the prosecution case. Such discrepancies are natural, particularly when the witnesses are subjected to examination after a considerable lapse of time, and cannot be made the basis for discarding otherwise reliable testimony.

31. The argument regarding the medical evidence also does not advance the case of the appellant. It is settled law that medical evidence is primarily corroborative in nature and failure of the medical expert to give a definite opinion regarding commission of rape does not, by itself, discredit the ocular testimony of the victim, particularly when such testimony inspires confidence and is supported by other circumstances on record. In the present case, the medical evidence, including the MLC report (Ex.P-18), and the forensic evidence have been duly considered along with the oral testimony of the witnesses.

32. The Regional Forensic Science Laboratory report, which indicates the presence of human sperm/semen on the articles examined,

including the exhibits connected with the victim and the appellant, provides additional corroboration to the prosecution case. The said scientific evidence, when considered along with the testimony of the victim and other prosecution witnesses, lends assurance to the findings recorded by the learned trial Court.

33. The victim, being a child subjected to a sexual offence, is not an accomplice and her evidence cannot be discarded merely for want of independent corroboration. The testimony of a victim of sexual assault is required to be assessed with due care and caution, and where it is found to be reliable and trustworthy, conviction can be based upon such testimony. In the present case, after appreciating the entire evidence on record, we find no reason to doubt the credibility of the victim or the manner in which the prosecution case has been established.

34. The learned trial Court has carefully appreciated the oral, documentary, medical, and scientific evidence and has recorded findings which are based on proper appreciation of the material available on record. The appellant has failed to demonstrate any perversity, illegality, or material error in the judgment of conviction and order of sentence warranting interference by this Court.

35. In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the Special Judge to the appellant is

hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.

36. It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.

37. Registry is directed to send a certified copy of this judgment along with the original record of the case to the trial court concerned forthwith for necessary information and compliance and also send a copy of this judgment to the concerned Superintendent of Jail where the appellant is undergoing his jail sentence to serve the same on the appellant informing him that he is at liberty to assail the present judgment passed by this Court by preferring an appeal before the Hon'ble Supreme Court, if so advised, with the assistance of High Court Legal Services Committee or the Supreme Court Legal Services Committee.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice

Head-note

Where the age of the child victim stands duly proved and her testimony is consistent, credible and inspires confidence, conviction can be sustained on her sole testimony.