

MHPU010057342026



Presented on : 16/05/2026  
Registered on : 16/05/2026  
Decided on : 29/06/2026  
Duration : 00Y.01M.13D.

**IN THE COURT OF SPECIAL JUDGE (POCSO ACT), PUNE**  
**(Presided over by S.R.Salunkhe)**

Form No. XXXII

**Part 'A'****(Title page of Judgment)****(Para 44(i) of Chapter VI of Criminal Manual)****Spl. POCSO Case No. 467/2026****Exh.No. 385**

**Crime No. 169 of 2026 at**  
**Rajgad Police Station, Pune Rural.**

<b>Prosecution</b>	<b>The State of Maharashtra,</b> Through Rajgad Police Station, Pune Rural.
<b>Represented by</b>	<b>Shri. Ajay Misar,</b> Ld. Spl.P.P. for the State.
<b>Accused</b>	<b>Bhimrao Prabhakar Kamble</b> Age : 65 yrs, Occ. : Nil, R/at : Salvade, Tal. Bhor, Dist. Pune.
<b>Represented by</b>	<b>Shri Himmatrao Suryawanshi,</b> LADC for the accused. <b>Shri Jiwani,</b> Chief LADC for the accused

**Part – 'B'****(Para 44(ii) of Chapter VI of Criminal Manual)**

Date of offence	01/05/2026
Date of F.I.R.	02/05/2026
Date of Charge-sheet	16/05/2026
Date of framing Charges	28/05/2026
Date of commencement of evidence	29/05/2026
Date on which Judgment is reserved	25/06/2026
Date of Judgment	29/06/2026
Date of Sentencing order, if any	As per final order.

### **ACCUSED DETAILS**

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with Under Sections	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec 428, Cr.P.C.
1]	Bhimrao Prabhakar Kamble	02/05/2026	UTP	U/s. 137(2), 140(1), 74, 64, 65(2), 103(1) and 238 of BBS and U/s. 4, 6, 8 & 12 of POCSO Act.	Convicted	Death	---

### **Part 'C'**

(Para 44(iii) of Chapter VI of Criminal Manual)

### **LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

#### **A. Prosecution -**

RANK	NAME	EXH. NO.	NATURE OF EVIDENCE
1	Vidya Shubhanand Mhatre	16	Inquest panch

2	Mother of the deceased victim	23	Complainant
3	Father of the deceased victim	28	Witness
4	Sandhya @ Radha Sandeep Gayawal	29	Witness
5	Samiksha Sanjay Gayawal	30	Witness
6	Mohseen Sikandar Shaikh	32	CCTV operator
7	Dr. Sachin Subhash Rashinkar	43	Private Practitioner
8	Pravin Sharad Beldare	45	Arrest panch
9	Omkar Dhananjay Gayawal	47	Witness
10	Grandmother of the deceased/victim	50	Witness
11	Viraj Madhukar Pawar	52	Panch in memorandum
12	Rajaram Vitthal Kumbhar	54	Seizure panch
13	Avinash Kisan Gamare	56	Photographer
14	Yogesh Satish Jangam	61	Witness
15	Mohammad Karim Aaga	65	Child witness
16	Ahsan Nasaruddin Ansari	67	Child witness
17	Rudra Mangesh Salunkhe	69	Child witness
18	Sandeep Hanmant Gayawal	71	Witness
19	Vaishali Arun Zore	74	Witness
20	Atul Balasaheb Nirmal	75	Witness
21	Rupesh Tukaram Harpude	77	Witness
22	Gaurav Satish Jangam	82	Witness
23	Uttam Shripati Dimble	85	Witness
24	Dr. Harish Suresh Tatiya	87	Medical Officer
25	Dr. Snehil Singh	119	Medical Officer
26	Dr. Rushikesh Shrirang Solunke	123	Medical Officer
27	Dr. Ashish Mohan Pathak	126	Medical Officer
28	Dr. Harshad Vishnu Toshniwal	128	Medical Officer
29	Dr. Bhushan Milind Telang	130	Medical Officer
30	Dr. Anil Sukhdeo Giri	132	Medical Officer
31	Eknath Baburao Kamble	138	Relative of the accused

32	Raju Gaurishankar Gupta	140	Chef
33	Dr. Sham Ramesh Khairkar	141	Forensic Expert
34	Anil Bhagwan Patil	144	Asstt. Chemical Analyser
35	Varsha Vijay Deshmukh	157	Asstt. Chemical Analyser
36	Pallavi Shrijeet Marathe	163	Scientific Officer
37	Vishal Sawla Pandhare	200	Scientific Officer
38	Sonali Tukaram Kolaskar	210	Panch witness
39	Satish Shivaji Kashid	213	Panch witness
40	Avdhoot Raosaheb Gujar	215	Panch witness
41	Mangesh Dattatray Kumbhar	225	First police to see victim
42	Raghunath Dattatray Shinde	230	Photographer
43	Ramdas Dhansing Babar	232	Photographer
44	Nana Maruti Madne	234	Photographer
45	Rahul Balkrushna Kolhe	246	Photographer
46	Mangesh Sampat Bhagat	248	Photographer
47	Bhagyesh Shivanand Gudli	251	Panch witness
48	Swapnali Ravindra Waghmare	262	Asstt. Chemical Analyser
49	Tukaram Dharmu Rathod	265	SIT member
50	Madhuri Digambar Zendge	281	SIT member
51	Nachiket Ajay Dandekar	304	Cyber Expert
52	Santosh Shrimant Gholve	331	SIT member
53	Dattajirao Ramchandra Mohite	332	SIT member
54	Pranav Dinesh Palange	342	Cyber Crime Investigator
55	Vijaymala Mahadeo Pawar	350	I.O.

**B. Defence witness, if any -**

RANK	NAME	NATURE OF EVIDENCE
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**C. Court witnesses, if any -**

RANK	NAME	NATURE OF EVIDENCE
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**LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**

**A. Prosecution-**

Sr.no.	Exhibit number	Description
1	17	Letter to act as a panch witness
2	18	Inquest panchnama
3	19	Right footprint of the victim
4	20	Left footprint of the victim
5	21/1 to 18	18 photographs of inquest panchnama
6	22	Pendrive containing photographs and video
7	24	Statement of the mother of the victim
8	25	Printed FIR
9	26/1 and 2	Two photographs of the victim
10	27	Birth certificate of the victim
11	31	Statement u/s 183 of BNSS of the witness
12	35	Statement u/s 183 of BNSS of the witness
13	36	Memory card seizure panchnama
14	37	Memory card reopen panchnama
15	38	Panchnama
16	39	Letter to act as a panch
17	40	DVR seizure panchnama
18	41	DVR Reopen panchnama
19	42	DVR seizure panchnama
20	44	Medical certificate
21	46	Arrest panchnama
22	48	Statement u/s 183 of BNSS of witness No. 09
23	51	Statement u/s 183 of BNSS of witness No. 10
24	53	Memorandum of accused
25	55	Seizure panchnama of 17 Articles of accused
26	57	Letter issued to photographer

27	58	Certificate u/s 63(4)(c) of BSA
28	59	Report regarding photography and videography
29	60	Hash value certificate
30	63	Letter regarding seizure of DVRs
31	64	Statement u/s 183 of BNSS of witness No. 14
32	66	Statement u/s 183 of BNSS of witness No. 15
33	68	Statement u/s 183 of BNSS of witness No. 16
34	70	Statement u/s 183 of BNSS of witness No. 17
35	72	Statement u/s 183 of BNSS of witness No. 18
36	76	Stones seizure panchnama
37	78	Letter to act as a panch witness
38	79	Assessment extracts of tin sheet shed
39	80	Spot panchnama
40	81	Spot sketch
41	83/1 to 6	Copies of Shop Act licence of wit. No. 22
42	84	Statement u/s 183 of BNSS of witness No. 22
43	88	Letter for conducting postmortem
44	89	Requisition letter for collecting samples
45	90	Letter for issuing advance death certificate
46	91	Requisition letter for collection of articles
47	92	Postmortem report
48	93	Advance death certificate
49	94 to 102	C.A. reports
50	103 to 112	C.A. reports
51	113	Letter issued to I.O. for opinion
52	114	Opinion of doctor
53	115	Letter Issue to I.O. for final cause of death certificate
54	116	Final cause of death certificate
55	118	SD card of process of postmortem
56	120	Letter issued to I.O. for examination of

		soundness of mind of the accused
57	121/1 and 2	Clinical notes of examination
58	122	Psychiatric assessment report
59	124	Letter issued to I.O. for potency test of the accused
60	125/1 and 2	Clinical notes cum certificate
61	127	Potency test report of the accused
62	129	Potency test report of the accused
63	131	Potency test report of the accused
64	133	Letter issued to I.O. for medical examination of the accused
65	134	Letter issued to I.O. for obtaining blood, hair, nail samples of the accused
66	135	OPD patient record
67	136	Identification form of the accused
68	139	Statement u/s 183 of BNSS of witness No. 31
69	142	Letter to RFSL to analyze the viscera and opinion
70	143	Receipt of viscera
71	145	Letter to analyze the muddemal and give opinion
72	146 to 152	Receipt of 18 articles
73	154	Photograph of the container
74	155	Muddemal cloth
75	156	Certificate u/s 63(4)(c) of BSA
76	158	Letter for providing DNA profile of the victim
77	159	Acknowledgment of the sample
78	160	Letter for providing DNA profile of the accused
79	161	Acknowledgment of the sample
80	164	Letter for hash value certificate of memory card along with sealed envelop
81	165	Acknowledgment receipt of the same

82	166	Case registration and acknowledgment receipt
83	167	Memory card
84	168	Letter for extracting the CCTV footage
85	169	Acknowledgment receipt
86	170	Case registration and acknowledgment receipt
87	171	List of document
88	172	Pendrive
89	173	Examination report of the accused
90	174	CD
91	174/1	Report of CD
92	175	Receipt of the letter issued by I.O. for video analysis
93	176	Acknowledgment receipt
94	177	Case registration and acknowledgment receipt
95	178	Pendrive
96	179	Examination report
97	180	Letter for video analysis
98	181	Acknowledgment receipt of the same
99	182	Case registration and acknowledgment receipt
100	183	Examination report
101	184	Pendrive in envelop F
102	185	Pendrive in envelop G
103	186	Pendrive in envelop H
104	187	Letter for video analysis
105	188	Acknowledgment receipt of the same
106	189	Case registration and acknowledgment receipt
107	190	Letter dated 19/05/2026
108	191	Examination report

109	192	Memory card
110	193	CD
111	194	Letter for video analysis
112	195	Acknowledgment receipt
113	196	Case registration and acknowledgment report
114	197	CCTV with photograph examination report
115	197/1	The envelop containing CD
116	198	Pendrive of 128 GB
117	199	Letter for issuing audio-video in seized muddemal
118	201	Hard disk
119	202	DVR
120	203	TASI report
121	204	Hard disk
122	205	I.O. issued letter for copied the hard disk
123	206	Forwarding letter
124	211	Panchnama
125	212	Memory card
126	214	Memorandum (Part I to IV)
127	216	Letter for procuring the witnesses
128	217	Seizure panchnama
129	218	Pendrive
130	219	Reopen panchnama
131	220	Transcript panchnama
132	221	Grampanchayat CCTV footage pendrive
133	222	Rajgad CCTV footage pendrive
134	223	Jama Masjid CCTV footage pendrive
135	224	Memorandum of accused
136	226	Certificate u/s 63(4)(c) of BSA
137	227	Photographs of the victim on the spot
138	231	52 Photographs collectively

139	233	Certificate u/s 63(4)(c) of BSA
140	235 to 245	11 certificates u/s 63(4)(c) of BSA
141	247	Certificate u/s 63(4)(c) of BSA
142	249 and 250	2 certificates u/s 63(4)(c) of BSA
143	252	Letter for act as a panch
144	253	Pendrives and transcript report seizure panchnama
145	254	Pendrives
146	255	2 NVRs seizure panchnama
147	255/1 and 2	2 NVRs
148	256	Reopening panchnama
149	257	Pendrive
150	258	Transcript Report
151	259	NVR seizure panchnama
152	260	NVR
153	264/1 to 130	Photographs of the place of incident
154	266	Order of team formation
155	267	Memory card muddemal receipt
156	268	15 pendrive muddemal receipt
157	269	Certificate u/s 63(4)(c) of BSA
158	270	Satish Sweet DVR muddemal receipt
159	271	Certificate u/s 63(4)(c) of BSA
160	272	Stones muddemal receipt
161	273	Letter to muddemal clerk
162	274	Muddemal receipt
163	275	Letter to muddemal clerk
164	276	Certificate u/s 63(4)(c) of BSA
165	277	Muddemal receipt
166	278	Certificate u/s 63(4)(c) of BSA
167	279	Letter to Tahasildar, Bhor
168	280	Letter to Gramvikas Adhikari Bhor

169	282 and 283	Letter to Supply Inspector and BDO
170	284/1 to 11	Photographs of the spot of incident
171	285	Certificate u/s 63(4)(c) of BSA
172	286	Spot Articles muddemal receipt
173	287	Letter to Yogesh Jangam for seizure of CCTV footage
174	288	Certificate u/s 63(4)(c) of BSA
175	289	DVR muddemal receipt
176	290	Letter to muddemal clerk
177	291 and 292	Letter to Grampanchyat Nasarapur
178	293	Grampanchyat NVR muddemal receipt
179	294	Letter to muddemal clerk
180	295	Letter to Rajgad jewellers
181	296	Rajgad jewellers NVR muddemal receipt
182	298 and 299	Letters to Judicial Magistrate, F.C. Bhor
183	300 and 301	Certificate u/s 63(4)(c) of BSA
184	302	Pendrive containing 20 photos
185	303/1 to 20	Copies of 20 photos
186	305	Request letter issued by S.P. Pune Rural
187	306	Hash value certificate of first pendrive containing CCTV footage
188	307	Hash value certificate of second pendrive containing CCTV footage
189	308	Hash value certificate of third pendrive containing CCTV footage
190	309	Hash value certificate of 26 photographs at the spot
191	310	Hash value certificate of the photo snapped by PSI Ajit Patil
192	311	Photograph snapped by PSI Ajit Patil
193	312	Pendrive containing photograph
194	313	Hash value certificate of the photo snapped by PC Mangesh Kumbhar

195	314	Pendrive containing photos snapped by PC Mangesh Kumbhar
196	315	Hash value certificate pertains to the photographs snapped by PHC Adwal
197	316	Photographs
198	317	Pendrive containing photographs snapped by PHC Adwal
199	318	Hash value certificate pertains to the photos snapped by Swapnali Waghmare
200	319	Hash value certificate of the photos pertains to the clothes of accused
201	320	4 photographs
202	321	Pendrive containing photographs
203	322	Hash value certificate pertains to the photos of the victim
204	323	7 photographs of the victim
205	324	Pendrive containing photographs of the victim
206	325	Hash value certificate pertains to the photos snapped by PSI Madhuri Zedg
207	326	Clone certificate
208	327	Hash value certificate of CCTV footage
209	328/1 to 170	Screen shots of CCTV footage
210	329	Certificate u/s 63(4)(c) of BSA
211	330	Pendrive
212	333	Copy of the order of Dy.S.P. Shri Mayne
213	334	Muddemal receipt
214	335	Station diary entry
215	336	Letter to BDO, Wadgaon Maval
216	337	Letter for appointing two panch
217	338	Station diary entry
218	339	Station diary entry
219	343, 344 and 345	Hash value certificates of CCTV footage of Grampanchyat, Rajgad Jewellers and Jama

		Masjid
220	346	Memory card
221	347	Hash value certificate of the files in the pendrive
222	348	Hash value certificate of the hard disk
223	349	Hard disk
224	351	Station diary extract
225	352	Station diary extract
226	353	Prescribed form for conducting postmortem
227	354	Letter for deputing the PHC Nimbalkar for completing the postmortem
228	355	Station diary extract
229	356	Letter to Land Survey Officer for sketch of the spot of incident
230	357	Forwarding letter
231	358	Sketch
232	359	Letter to Village officer
233	360	Letter to Supdt. of Police for extracting CCTV footage
234	361	Letter issued for services of forensic photographer
235	362	Order of appointment of forensic photographer
236	363	Letter for providing cause of death certificate
237	365	Letter to Rajgad police station for providing the copy of FIR
238	366	Copy of FIR provided by Rajgad police station
239	367	Certified copy of judgment
240	368	Certified copy of the FIR
241	369	Certified copy of the judgment
242	370	Letter for Call log of dial 112
243	371	Letter for receiving call log

244	372	Call log of dial 112
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**Documents admitted under Section 294 of the Code of Criminal Procedure, 1973.**

Sr. No.	Exhibit number	Description
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**B. Defence -**

Sr. No.	Exhibit number	Description
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**C. Court Exhibits -**

Sr. No.	Exhibit number	Description
1]	10	Charge
2]	374	Evidence close pursis
3]	377	Statements u/s 313 of Cr.P.C.

**D. Material Objects -**

Sr. No.	Exhibit number	Description
1	Article 'A'	T-shirt of the victim
2	Article 'A-1'	Wrapper
3	Article 'B'	Wrapper with the soil
4	Article 'C'	Memory card
5	Article 'D'	DVR
6	Article E/1 to 10	Articles found in possession of the deceased
7	Article 'F'	Legging of the victim
8	Article G/1 to 17	Articles of the accused
9	Article 'H'	Gathi shev in paper wrapper
10	Article 'I'	DVR

11	Article 'J'	Pendrive and photographs
12	Article 'K'	Pendrive and photographs
13	Article 'L'	Pendrive and photographs
14	Article 'M'	Stones
15	Article N/1 to 8	Articles found on the spot

**J U D G M E N T**  
( Delivered on 29<sup>th</sup> June 2026 )

The accused **Bhimrao Prabhakar Kamble**, a man of 65 years of age has been prosecuted for having committed rape on a girl child of just 3 years of age. He further sexually abused, assaulted that child and killed her and her dead body was concealed under an empty gunny bag to dispose it of at convenient time.

**Charges:**

2. The charges against the accused, nature of the offences and prescribed punishment can be stated in following tabular form as follows-

S.N.	Act	Section	Nature of offence	Punishment
1	BNS	137(2)	Kidnapping from lawful guardianship	Seven years to life imprisonment and fine
2	BNS	103(1)	Committing murder	Death or life imprisonment and fine
3	BNS	64	Committing rape on a woman under certain circumstances	Minimum punishment of imprisonment of 10 years to life imprisonment which means the remainder of his life and fine
4	BNS	65(2)	Committing rape on a	Death or life

			woman below 12 years of age	imprisonment which means remainder of life or the fixed term of imprisonment not less than 20 years and fine.
5	BNS	74	Assaulting or using force on a woman to outrage her modesty	Imprisonment of not less than 1 year which may extend to 5 years and fine
6	BNS	140(1)	Kidnapping or abducting in order to murder	Imprisonment for life or rigorous imprisonment for 10 years and fine
7	BNS	238	Causing disappearance of the evidence of the offence punishable with death	Imprisonment for 7 years and fine
8	POCSO	3 r/w 4(2)	Committing penetrative sexual assault on a child below 16 years of age	Imprisonment minimum of 20 years but upto imprisonment of life means remainder of life and fine.
9	POCSO	5 r/w 6	Committing aggravated penetrative sexual assault on a child below 12 years of age	Imprisonment minimum of 20 years but upto life imprisonment means remainder of life and fine or death.
10	POCSO	7 r/w 8	Committing sexual assault	Imprisonment minimum 3 years but extent to 5 years and fine.
11	POCSO	11 r/w 12	Committing sexual harassment	Imprisonment upto 3 years and fine.

**Pre-incident background:**

3. The prosecution case in brief is that, the informant/the mother of the victim was residing at Dhayari, Pune with her husband and two daughters, one aged 6 years and another aged 3 years (victim). Her parental village is Nasarapur, Tal. Bhor, Dist. Pune. Her parental house was within the premises of Shriram temple at Nasarapur. Her father was

the priest and he was maintaining the that temple and was performing daily pooja. He died in the year 2022 and her mother was alone residing in the house and was performing daily pooja and was maintaining the temple. The daughters of the informant were going to her parental house occasionally and during the holidays. The victim had gone to her parental house two months prior to the incident and her elder daughter had also gone to her parental house at the end of the month of April 2026. Both her daughters were familiar with the children in neighboring houses and they were playing together. They were also going to the houses of the neighbours for playing with their children. Sandeep Gayawal (PW-18) was one of the neighbours and he had cow shed, in which, his four cows were tied. There was tin sheet shed by the side of cow shed, in which, the agricultural equipment and waste material was stored. On 29/04/2026, one of his cows had delivered a calf and the nearby children used to go there to see the calf.

4. The accused was originally from village Salwade, Tal. Bhor, Dist. Pune. He had 7 daughters and a son. His behavior was not proper. He was prosecuted for outraging the modesty of one old lady in his house. He was prosecuted for the said offence. He was also prosecuted for second time for misbehaving with the daughter of his cousin brother. The chargesheets were filed against him for both the incidents but on trial, he was acquitted. He was also misbehaving with the animals. His conduct with the ladies in the village was not proper and therefore, the villagers had expelled him from the village and consequently, he was doing the labour work at Nasarapur village on daily wages. The persons for whom he was working as a labour, were providing him food. He had no

permanent place of residence and he was residing wherever the space is available. He was working as labour in the field of Sandeep Gayawal (PW-18) and was providing fodder and water to his cows, cleaning the cow shed and was staying in a tin sheet shed by the side of his cow shed, where agricultural equipment and other waste material was stored. There was a steel cot in that shed and he was staying there during the period when he was working for Sandeep Gayawal. He had kept his belongings in that shed.

**The incident:**

5. At the time of alleged incident, the renovation work of Shriram temple was going on and a truck of bricks was unloaded in front of Shriram temple. The bricks were required to be carried to the back side of the temple manually. Sandeep Gayawal, Jadhav Mama, Chotu, Bangali Bhabhi, Pawa mama and this accused were carrying the bricks manually to the back side of Shriram temple on daily wages since 25/04/2026.

6. The accused was staying at the hotel where he was working till 25/04/2026 and from 26/04/2026, he joined the work of carrying bricks and since then, he was staying in tin sheet shed of Sandeep Gayawal and he had kept his sack and bundle of his other belongings on a cot in that shed but Sandeep Gayawal was not knowing that fact. On 27/04/2026, the brother of Sandeep Gayawal namely Sanjay noticed that fact and he told about the same to Sandeep Gayawal and asked him to tell the accused to remove his belongings from the shed and take it elsewhere. On 30/04/2026, the Contractor paid Rs.100/- to the accused and asked all the labours to continue the work and their daily wages will be paid online.

The accused did not stay at the tin sheet shed in the night on 30/04/2026.

7. On 01/05/2026, the accused did not join the work of carrying bricks and he was sitting on the step of Shriram temple and the victim was playing in the premises of the temple. Sandeep Gayawal asked the accused to remove his belongings from the tin sheet shed. He told that he is going to stay there during night. Sandeep Gayawal got annoyed of it and threatened the accused to remove his belonging forthwith. The accused therefore, went to the shed and brought his belongings and kept them at one side of the temple.

8. There was lunch break at 2.30 p.m. and the labours went for lunch. The children were playing hide and seek game within the premises of the temple and the victim was playing alone in the premises of the temple. One of the children sat on the motorcycle in front of the temple and the accused got annoyed of it and started pelting bricks at the children, so that, they shall go away from that place. Children consequently ran away from that place.

9. At about 4 p.m., the grandmother of the victim noticed that the victim is not appearing within the premises of the temple. She went to the houses of the neighbours and made inquiry about her but she did not find the victim in the house of any of the neighbours. The neighbours also started searching the victim nearby and the nearby locality but she could not be traced out.

10. Some of the neighbours suggested that the CCTV footage of

Grampanchyat and elsewhere installed should be checked, so that, they may get any clue where the victim might be. Accordingly, the neighbours checked the CCTV footage of Grampanchyat but nothing useful was found therein. Then they checked the CCTV footage of the CCTV system installed at the house of Yogesh Jangam and one of its camera was covering the road going towards the public water tank and Shriram temple. While checking the CCTV footage, they noticed that one old man having white shirt and white payjama is waiting for some time with a bag in his hand near small Munjoba temple by the side of the house of Sandeep Gayawal. After sometime, that person proceeded towards the public water tank by holding that bag in his both hands which was filled with something. Getting this clue, neighbours assumed that the said person might have kidnapped the victim.

**11.** One of the neighbours dialed 112 police helpline number and informed that a small girl child has been kidnapped. The neighbours started searching that person and it was eventually found that the said person was Uttam Dimbale (PW-23), who was carrying bread loafs in his hands to celebrate the birthday of his grandson in the evening.

**12.** In the meantime, two policemen entered into the village Nasarapur by police vehicle. They were informed that the information given to them was incorrect and the suspected person has not kidnapped the victim and she is yet not traced out. By the time, getting the news of missing of the victim, other villagers gathered in large number near the house of Sandeep Gayawal. The villagers started verifying further CCTV footage of Yogesh Jangam. While checking the CCTV footage, the accused

was seen coming with the victim from the public water tank at about 3.12 p.m. and when he reached near Munjoba temple, he caught hold the hand of the victim and took her towards right side where the cow shed of Sandeep Gayawal was situated and there was tin sheet shed adjacent to it, in which, the accused was staying earlier. At about 3.51 p.m. the accused alone came back from that direction and went towards the public water tank. The villagers realized that the accused might be knowing where the victim is. Therefore, Sandeep Gayawal and Sandeep Kamble went to search the accused.

**13.** The accused was found sitting on a katta of Kalubai temple in the premises of Baneshwar temple. Sandeep Gayawal asked him as to what he has done with the victim. Knowing that he has been caught, accused admitted his guilt and told Sandeep Gayawal that he has committed mistake and he has killed the victim. He was taken near the house of Sandeep Gayawal where the villagers had gathered. The accused was asked the whereabouts of the victim but he started say that he doesn't know. Police present there reported all these developments to their senior police officer, who instructed them to bring the accused to the police station. Accordingly, two policemen took the accused in their vehicle and proceeded towards Rajgad police station. On the way, a team of police met with them. Two policemen were sent with the accused by the vehicle to the police station and other police staff went to village Nasarapur. Villagers continued to search the victim.

**14.** Omkar Gayawal (PW-9), while searching the victim, went to the cow shed and then entered into the tin sheet shed to search the victim

and he saw the legs of the victim coming out of the gunny bag put on her body. By seeing that scene, he ran out shouting and the mob became alert. Police and the villagers entered into that shed, gunny bag was removed and the victim was found lying in injured condition. Her leggins was gagged into her mouth and some white substance had come out of her nose. There were injuries on her face, chest, private part and there were blood clots near her anus. Knowing the situation, the local doctor was called, who examined the victim and he declared her already dead.

**15.** The policeman Mangesh Kumbhar (PW-41) snapped the photographs of the child lying there in his mobile phone and the place of incident was guarded and secured. The information was given to the senior police officers. The police team rushed to the spot and the dead body of the child was taken to Sassoon hospital as it is. The two panch witnesses were called in the hospital and the inquest panchnama was drawn in their presence and the proceeding of the said panchnama was video-graphed. The dead body was then referred for postmortem examination, which was conducted by a team of doctors and the leggins gagged into the mouth of the child was removed. After conducting the postmortem examination, the dead body was handed over to the relatives of the victim child.

**16.** The information of that incident was given to the parents of the victim and they rushed to Nasarapur. Knowing that the victim is no more, they sustained tremendous mental shock. After getting cool down, the formal complaint of the mother of the victim was recorded against the accused and the law was set in motion. The crime came to be registered

against the accused.

**17.** In the meantime, this incident got wide circulation in print and electronic media. Thousands of people gathered at Nasarapur, which is situated by the side of Mumbai-Bengaluru National Highway. There was emotional outbreak of the people by knowing this heinous crime. They arranged protest against that incident and they marched towards Mumbai-Bengaluru National Highway. They came with the dead body of the victim in ambulance and they blocked the National Highway for their demand that the accused shall be handed over to them and they shall do justice with him on the spot. The Government Authorities, police, representatives of the people and media persons tried their level best to control the emotions of the people and normalize the situation, to uphold the supremacy of law. They succeeded to persuade the people protesting that let the law to take its own course and they should not take the law in their hands. The police authorities assured the immediate probe and efficient completion of the investigation. Ultimately, the people protesting were persuaded and then the dead body of the child was taken to perform the last rites.

**18.** The Superintendent of Police, Pune Rural immediately formed the Special Investigation Team (SIT) initially of 7 police officers and two other police officers were subsequently added to the team. During investigation, the spot panchnama was drawn by taking the accused in the midnight and the articles found at the spot were seized. That process was also video-graphed. The doctors conducting postmortem examination were requested to obtain the samples of the blood, hair, nails of the victim

and the samples for DNA profiling were also obtained. All the samples were sent for analysis to R.F.S.L. Pune in sealed condition. The CCTV footage capturing the presence of the accused with the victim at the relevant time was extracted on 5 pen drives with the help of Cyber expert. The original DVRs and NVRs, Memory Cards of the CCTV system installed at Grampanchayat, at the house of Yogesh Jangam, at Rajgad Jewellers, at Jama Masjid and 360 degree CCTV camera installed at the shop of Safal Kuvad were seized under panchnama. The authenticity of the original data and the data extracted in the pen drives was ensured by obtaining hash value certificates and the certificates under Section 63(4)(c) of BSA regarding the photographs snapped during the investigation. The various samples of the accused were also obtained for DNA profiling and those samples were also sent for analysis to R.F.S.L. Pune. The DNA profiling was done and the reports were procured. The DNA samples were found matching and they were included in the case papers.

**19.** The accused, while in custody, made disclosure statement that he will show the place where he has kept his belongings. The memorandum of his statement was accordingly recorded in presence of two panchas. It was not practicable to take the accused physically to the spot due to security reasons and therefore, he was connected through video conference call on mobile phone by the police officer present at the spot with two panch witnesses and the accused shown the place by sitting in the police station with two panch witnesses. His belongings were recovered under panchnama which were kept behind the door of a room which was latched and was situated within the premises of Shriram temple at Nasarapur. This was the virtual recovery panchnama drawn.

**20.** The investigation was started by recording formal complaint of the mother of the victim. During investigation, the statements of the father (PW-3) and grandmother (PW-10) of the victim were recorded. The witnesses Sandhya Gayawal (PW-4), Samiksha Gayawal (PW-5), Omkar Gayawal (PW-9), Yogesh Jangam (PW-14), Gaurav Jangam (PW-22), Sandeep Gayawal (PW-18) were the neighbours and their statements were also recorded. The incident was taken place in the tin sheet shed owned by Sandeep Gayawal and therefore, the evidence of those witnesses was important. The person initially seen in the CCTV footage carrying something in a bag held by him in his both hands was actually the witness Uttam Dimble (PW-23) and his statement was also recorded. Witness Raju Gupta (PW-32) was the chef working in the sweet Furness of Yogesh Jangam, who had heard the last scream of the victim. His statement was also recorded.

**21.** Apart from recording the statements of the above witnesses, various panchnamas were drawn during the investigation and the material objects were seized and sealed. The medical evidence, electronic evidence and forensic evidence was collected and got scientifically examined. Their reports were collected. After conclusion of investigation, this charge-sheet was filed and the process was accordingly issued against the accused. The accused remained the under trial prisoner.

**22.** The charge was framed against the accused (Exh. 10) and its contents were explained to him, which he pleaded not guilty and claimed to be tried. The prosecution examined 55 witnesses and after completion

of prosecution evidence by pursis (Exh. 374), the statement of the accused under Section 351 of BNSS (Exh. 377) was recorded. The accused did not lead any defence evidence or the rebuttal evidence as per Section 29 of POCSO Act.

**23.** Heard Shri Ajay Misar, the learned Spl. P.P. and Shri Himmatrao Suryawanshi, the learned LADC appearing for the accused. They have filed written notes of arguments in support of their rival submissions. The submissions, in substance, of the learned Spl. P.P. are that the prosecution has proved the guilt of the accused beyond reasonable doubt by establishing the continuous and complete chain of circumstances. The presence of the accused with the victim in proximity of the time of death of the victim has been clearly proved. Thus, the last seen together theory has also been established. The answers given by the accused during his statements under Section 351 of BNSS proves that, he has admitted his presence at the spot with the victim. Therefore, the prosecution has conclusively proved by medical evidence, electronic evidence and the forensic evidence that the accused was that person who has sexually assaulted the victim and he has committed her murder and tried disappearance of the evidence by concealing her dead body under gunny bag in tin sheet shed of Sandeep Gayawal.

**24.** As against this, the learned LADC centers his submissions around the proof of medical evidence, electronic evidence and forensic evidence. According to him, the exhaustive cross-examinations of the witnesses regarding the aforesaid evidence clearly establishes that the said evidence is suffered with several discrepancies and such evidence cannot

be taken as conclusive proof of the guilt of the accused. According to him, there is no eye witness of the incident and thus, the case is based on circumstantial evidence and last scene together theory. The prosecution has not succeeded to establish the complete chain of circumstances pointing the guilt of the accused. Thus, merely because the accused seen proceeding with the victim towards the cow shed of Sandeep Gayawal, that does not become the conclusive proof of subsequent events which might have taken place, because there is no CCTV coverage to the tin sheet shed of Sandeep Gayawal. The accused has given explanation about his association with the victim and his return alone from the said tin sheet shed in his statement under Sec.351 of BNSS. All these circumstances create reasonable doubt about the truthfulness of the prosecution story and there is no conclusive proof that the accused has committed the sexual assaults on the victim and he has killed her. Thus, the benefit of doubt shall go in favour of the accused and the accused is therefore, entitled to be acquitted.

**25.** In view of the above submissions and the evidence led by the prosecution, the following points arise for my determination. The findings thereon are recorded for the reasons recorded thereunder:

Sr.No.	POINTS	FINDINGS
1.	Does the prosecution prove that on 01.05.2026, between approximately 3:00 pm and 8:00 pm, the accused, unlawfully induced, took away and kidnapped the minor female victim, aged approximately 3 years and the daughter of the informant, from the Ram Mandir area, Nasrapur,	

	Tal. Bhor, Dist. Pune, from her lawful custody and guardianship of her family, without the consent of her guardian, and thereby committed an offence punishable under section 137(2) of the Bharatiya Nyaya Sanhita, 2023?	<b>..Proved</b>
2.	Does the prosecution prove that on on aforesaid date, time and place, the accused having kidnapped the said minor victim, with the intention and knowledge that she might be murdered or so disposed of as to be put in danger of being murdered, and thereby committed an offence punishable under Section 140(1) of the Bharatiya Nyaya Sanhita, 2023?	<b>..Proved</b>
3.	Does the prosecution prove that on 01.05.2026 in between approximately 3:00 pm and 8:00 pm, at the tin-sheet shed situated adjacent to the cattle shed of Sandip Gayawal at Nasrapur, Tal. Bhor, Dist. Pune, the accused used criminal force to deceased minor victim, a female child, with an intention to outrage her modesty, or knowing it to be likely that you would thereby outrage her modesty, and thereby committed an offence punishable under Section 74 of the Bharatiya Nyaya Sanhita, 2023 ?	<b>..Proved</b>
4.	Does the prosecution prove that on aforesaid date, time and place, the accused, committed rape upon minor victim, a child aged 3 years, who was wholly incapable of consenting by reason of her tender age, and thereby committed an offence punishable under Section 64 of the Bharatiya Nyaya Sanhita, 2023 ?	<b>..Proved</b>
5.	Does the prosecution prove that on aforesaid date, time and place, the accused, committed rape upon deceased minor victim, aged 3 years, a female child, who was below the age of twelve years, and	<b>..Proved</b>

	the said act constitutes rape on a child under twelve years of age, and you accused thereby committed an offence punishable under Section 65(2) of the Bharatiya Nyaya Sanhita, 2023 ?	
6.	Does the prosecution prove that on aforesaid date, time and place, the accused committed murder of the minor victim, who was aged 3 years and the daughter of the informant, by committing an act viz. committing rape and murder, with the intention of causing such bodily injury as was likely to cause death, or with the knowledge that he was likely by such act would cause death, and thereby committed an offence punishable under Section 103(1) of the Bharatiya Nyaya Sanhita, 2023 ?	<b>..Proved</b>
7.	Does the prosecution prove that on aforesaid date, time and place, the accused, knowing that you have sexually assaulted the victim aged 3 years, a female child, committed rape on her and then committed her murder and caused the evidence of those offences to disappear with the intention of screening yourself from legal punishment, has concealed the dead body of the victim under empty gunny bag and waste material in the tin sheet shed adjacent to cow shed of Sandeep Gayawal and thereby, committed an offence punishable under section 238 of the Bharatiya Nyaya Sanhita, 2023 ?	<b>..Proved</b>
8.	Does the prosecution prove that on aforesaid date, time and place, the accused committed penetrative sexual assault upon the deceased minor victim, aged 3 years, and thereby committed an offence as per Section 3, punishable under Section 4 of the POCSO Act, 2012 ?	<b>..Proved</b>
9.	Does the prosecution prove that on aforesaid date, time and place, the accused committed aggravated penetrative sexual assault upon the deceased minor victim, below the age of twelve years, being only 3	

	years of age, and the said assault resulted in her death, and you accused thereby committed an offence of aggravated penetrative sexual assault as per Section 5 punishable under Section 6 of the POCSO Act, 2012 ?	<b>..Proved</b>
10.	Does the prosecution prove that on aforesaid date, time and place, the accused committed sexual assault upon deceased minor victim, a child, by touching her private parts with sexual intent, and thereby committed an offence as per Section 7 punishable under Section 8 of the POCSO Act, 2012 ?	<b>..Proved</b>
11.	Does the prosecution prove that on aforesaid date, time and place, the accused, with sexual intent, made contact with the deceased minor victim by means of, uttering words, making gestures with intention that such words and gestures would entice the child for sexual purpose, by offering her sweets (Gathi Shev) as gratification with sexual intent, kept watch and followed the minor victim girl, with sexual intent, and thereby committed an offence as per Section 11 punishable under Section 12 of the POCSO Act, 2012 ?	<b>..Proved</b>
12.	What order ?	<b>As per final order.</b>

### REASONS

#### As to Point Nos.1 to 11 :

26. The principal question to be determined is whether the accused is responsible for the sexual assaults and murder of the victim. All the points framed above for individual offences revolves around this principal question. So, to avoid the repetition of the facts and evidence, it would be convenient to discuss all the points with common discussion.

**Scope of Evidence and requirement of law:**

27. There is no witness of the actual incident and the prosecution case entirely rests on circumstantial evidence and the theory of last seen together. When the question of circumstantial evidence comes, the reference to the landmark judgment of the Hon'ble Supreme Court in *Sharad Birdhichand Sarda v. State of Maharashtra*<sup>1</sup> becomes inevitable. The five golden principles (*Panchsheel*) have been laid down in this judgment in para 153 as follows-

“153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

*(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.*

It may be noted here that this Court indicated that the circumstances concerned “must or should” and not “may be” established. There is not only a grammatical but a legal distinction between “may be proved” and “must be or should be proved” as was held by this Court in *Shivaji Sahabrao Bobade v. State of Maharashtra* [(1973) 2 SCC 793] where the observations were made:

“Certainly, it is a primary principle that the accused *must* be and not merely *may* be guilty before a court can convict and the mental distance between ‘*may be*’ and ‘*must be*’ is long and divides vague conjectures from sure conclusions.”

*(2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,*

*(3) the circumstances should be of a conclusive nature and tendency,*

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1(1984) 4 SCC 116

*(4) they should exclude every possible hypothesis except the one to be proved, and*

*(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused”.*

**The evidence:**

**28.** The prosecution has examined total 55 witnesses to bring home the guilt of the accused. To appreciate the prosecution evidence in its proper perspective, the prosecution witnesses can be grouped according to their role and nature of their evidence. They are accordingly grouped as follows-

S.N./P.W.	Name	Exh	Nature of Evidence	
<b>(A) Witnesses relating to the incident</b>				
1	PW-2	Mother of the victim	23	First Informant
2	PW-3	Father of the victim	28	Witness
3	PW-4	Sandhya Gayawal	29	Witness
4	PW-5	Samiksha Gayawal	30	Witness
5	PW-9	Omkar Gayawal	47	Witness
6	PW-10	Grandmother of the victim	50	Witness
7	PW-14	Yogesh Jangam	61	Witness
8	PW-15	Mohammad Aaga	65	Child witness
9	PW16	Ahsan Ansari	67	Child witness
10	PW-17	Rudra Salunke	69	Child witness
11	PW-18	Sandeep Gayawal	71	Witness
12	PW-19	Vaishali Zore	74	Member, Mahila Dakshata Samiti
13	PW-22	Gaurav Jangam	82	Witness
14	PW-23	Uttam Dimble	85	Witness

15	PW-32	Raju Gupta	140	Chef
<b>(B) Witnesses for Medical Evidence</b>				
16	PW-7	Dr. Sachin Rashinkar	43	Private Practitioner
17	PW-24	Dr. Harish Tatiya	87	Medical Officer
18	PW-25	Dr. Snehil Singh	119	Medical Officer
19	PW-26	Dr. Rushikesh Solunke	123	Medical Officer
20	PW-27	Dr. Ashish Pathak	126	Medical Officer
21	PW-28	Dr. Harshad Toshniwal	128	Medical Officer
22	PW-29	Dr. Bhushan Telang	130	Medical Officer
23	PW-30	Dr. Anil Sukhdeo Giri	132	Medical Officer
<b>(C) Witnesses for Electronic Evidence</b>				
24	PW-6	Mohseen Shaikh	32	CCTV operator & panch
25	PW-51	Nachiket Dandekar	304	Cyber Expert
26	PW-54	Pranav Palange	342	Cyber Crime Investigator
27	PW-42	Raghunath Shinde	230	Photographer
28	PW-43	Ramdas Babar	232	Photographer
29	PW-44	Nana Madne	234	Photographer
30	PW-45	Rahul Kolhe	246	Photographer
31	PW-46	Mangesh Bhagat	248	Photographer
<b>(D) Witnesses for Forensic Evidence</b>				
32	PW-33	Dr. Sham Khaikar	141	Medical Officer
33	PW-34	Anil Patil	144	Asstt. Chemical Analyser
34	PW-35	Varsha Deshmukh	157	Asstt. Chemical Analyser
35	PW-36	Pallavi Marathe	163	Scientific Officer
36	PW-37	Vishal Pandhare	200	Scientific Officer
37	PW-48	Swapnali Waghmare	262	Asstt. Chemical Analyser
<b>(E) Panch Witnesses</b>				
38	PW-1	Vidya Mhatre	16	Inquest panch
39	PW-8	Pravin Beldare	45	Arrest panch
40	PW-11	Viraj Pawar	52	Panch on memorandum
41	PW-12	Rajaram Kumbhar	54	Seizure panch

42	PW-13	Avinash Gamare	56	Photographer
43	PW-38	Sonali Kolaskar	210	Panch witness
44	PW-39	Satish Kashid	213	Panch witness
45	PW-40	Avdhoot Gujar	215	Panch witness
46	PW-47	Bhagyesh Gudali	251	Panch witness
47	PW-20	Atul Nirmal	75	Panch witness
48	PW-21	Rupesh Harpude	77	Panch witness
<b>(F) Witnesses relating to Investigation</b>				
49	PW-41	Mangesh Kumbhar	225	First police to see victim
50	PW-49	Tukaram Rathod	265	SIT member
51	PW-50	Madhuri Zendge	281	SIT member
52	PW-52	Santosh Gholve	331	SIT member
53	PW-53	Dattajirao Mohite	332	SIT member
54	PW-55	Vijaymala Pawar	350	I.O.
<b>(G) Witness for history of accused</b>				
55	PW-31	Eknath Kamble	138	Relative of the accused

**(A) Evidence relating to the incident:**

29. The parents of the victim (PW-2&3) were residing at Dhayari, Pune and they were informed about the incident at about 6.15 p.m. by the witness Omkar Gayawal (PW-9) and thereafter, they came to the spot. They went in mental shock by getting the information that their daughter has been killed and her dead body has been sent for PM examination. After getting cooled down, the mother of the victim lodged formal complaint against the accused as per the information she received and thus, the law was set in emotion. During investigation, the statement of the father of the victim was also recorded. They stated as per the information they had received and there was no much scope for their cross-examination, as they were not the witnesses of the incident and their

statements were based on hearsay information.

**30.** The grandmother of the victim (PW-10) was also the formal witness, as she herself did not notice anything. She just went out to search her victim and eventually, the CCTV footage was shown to her by the other witnesses, in which, the accused was seen proceeding with the victim towards cow shed of the witness Sandeep Gayawal (PW-18).

**31.** Sandhya Gayawal (PW-4) was the wife of Sandeep Gayawal, who were the owners of the tin sheet shed, in which, the alleged incident took place. She stated that the accused was working as a labourer in her field whenever required and he was also doing the work of providing cattle fodder and water to the cows and to clean the cow shed. She was providing him food whenever he was working at her cow shed. He was staying in the tin sheet shed adjacent to the cow shed. She has further deposed that on 30/04/2026, one of her four cows delivered a calf and all the children in neighbouring houses were coming to see newly born calf. She was conversant with the victim, her elder sister and their grandmother as the grandmother was her neighbour.

**32.** Speaking about the events took place on the day of incident i.e. on 01/05/2026, she deposed that at about 11.30 a.m. the victim was playing with her son Sai near Shriram temple. Her elder sister came and took her to the house of her grandmother. At about 1.30 to 2.00 p.m. victim came to the house of Shobha Gayawal, which was adjacent to her house situated in the same building. The victim went to play with other children on a swing in the house of Shobha Gayawal. The wife of her

brother-in-law namely Kishori called the victim and therefore, she went there and after 5-10 minutes, her elder daughter Shreyashi took her to the house of her grandmother and left her there.

**33.** At about 4.00 p.m. the grandmother of the victim came to her and asked her whether she has seen the victim. She and her other family members came to know from her that the victim is missing. So, all of them started searching them nearby but she could not be traced out. Her nephew Omkar Gayawal (PW-9) decided to verify the CCTV footage, so that, he will get some clue of the whereabouts of the victim. He therefore, requested Rupesh Ovhal, the Grampanchayat member to verify CCTV footage of the CCTV of Grampanchayat but victim was not traced out. Then they went to sweet furness of two brothers Yogesh Jangam (PW-14) and Gaurav Jangam (PW-22) where CCTV system was installed. As there was no electricity, the CCTV footage could not be verified.

**34.** The witness Mohseen Shaikh (PW-6) had installed the said CCTV footage and he was maintaining the same. He was having access of that CCTV to his mobile phone. Therefore, he was asked to verify the CCTV footage by getting access of it to his mobile phone. Accordingly, he verified the CCTV footage accessing the same in his mobile phone and it was noticed that the accused was taking the victim with him from the public water tank to her cow shed. Her husband Sandeep Gayawal and other neighbours were present there and they all identified the accused in that CCTV footage.

**35.** The witness Sandeep Gayawal (PW-18) and Sandeep Kamble

therefore, proceeded by their motorcycle to search the accused and he was found sitting near Kalubai temple at Baneshawar corner. He was taken to the house of Sandeep Gayawal and he was asked whether he has seen the victim and he told that he has not seen her. Finding concern of the accused with missing victim, police present there took the accused with them and they proceeded towards the police station.

**36.** The search of the victim was going on but she was not forthcoming. After 10 minutes, police again came to her house. Police and her nephews Omkar and Atharv went to search the victim and the victim was found dead in the tin sheet shed. She identified the accused in the said CCTV footage.

**37.** Samiksha Gayawal (P.W.-5) was the cousin sister of Omkar and Atharv Gayawal. She was familiar with the victim, her sister, mother and grandmother as a neighbour. She and the mother of the victim had grownup together and they were the friends. The victim and her elder sister were coming to the house of her grandmother to enjoy the holiday and therefore, she was knowing them well. She was also knowing the accused, as she had seen him on number of occasions in her village. On 01/05/2026, she was returning home from Pune by giving her examination and at that time, she saw that victim was playing near Shriram temple and the accused was sitting on a step of the temple. At about 3.45 p.m. the grandmother of the victim came to inquire whether victim is there, as she was not forthcoming. She and other members of her family therefore, started searching the victim. She along with her brother Omkar went to Mulani Ali to search the victim but she was not found

there. So, the persons gathered there decided to verify the CCTV footage. It was found that one old man is pondering near Munjoba temple and thereafter, he went with a gunny bag filled with something, holding by his two hands and he sat on the motorcycle waiting for him and he went away.

**38.** Therefore, it was initial impression of the persons gathered there that the said person might have kidnapped the victim. The information to police was given by dialing 112 number. The persons gathered there collected information of that person and it was ultimately found that he was the witness Uttam Dimble (PW-23), who was carrying bread loafs to celebrate the birthday of his grandson in the evening. She forwarded that information on phone to Omkar Gayawal who was present at the Grampanchayat and that information was given by him to police, who were coming to Nasarapur by their vehicle, to make inquiry about the missing of girl as per the information received by them.

**39.** Thereafter, the CCTV footage of the house of Yogesh Jangam (PW-14) was verified and the accused was seen in that CCTV footage taking the victim to the cow shed of Sandeep Gayawal. In the meantime, the accused Bhimrao Kamble was brought there by Sandeep Gayawal and police and the persons present there made inquiry with him about the missing victim but he was not telling anything about her. Police therefore, took him with them and thereafter, the dead body of the victim was found in the tin sheet shed by the side of the cow shed of Sandeep Gayawal.

**40.** Omkar Gayawal (P.W.9, Exh. 47) is an important witness,

who played important role in searching the victim. His statement under Section 183 of BNSS was also recorded (Exh. 48). It has come in his evidence that his father Dhananjay and three uncles namely Sandeep, Sanjay and Ganesh were residing with their families in four separate flats in two storied building at Nasarapur. He along with his wife was returning home at Nasarapur, after visiting Datta temple at Narayanpur and at about 2.30 p.m., he parked his moped in front of Shriram temple and he saw the accused sitting on a step of the temple. The accused told him that he has sustained injury to his leg but he neglected the accused. At about 4.00 p.m., the grandmother of the victim came to his house making inquiry as to whether the victim is in their house. He came out of the house and saw that his aunt Kishori and other ladies Dalvi, Radha and Lone uncle had gathered there. His cousin sister Samiksha (P.W.5) told him that when she was returning home from Pune, she had seen the victim playing near Shriram temple. All of them therefore, started searching for the victim but she could not be traced out. He therefore, went to Mulani Ali with Samiksha to see whether the victim has gone there but she could not be seen there also.

**41.** When they were returning, they saw Avinash Gayawal, Gaurav Jangam (P.W. 22), Sandeep Kamble and Rupesh Ovhal were standing together. All of them decided to verify the Grampanchayat CCTV footage. Accordingly, all of them, with the ladies present there went to Grampanchayat and started verifying the CCTV footage. At that time, Samiksha came and told the persons present there that in the CCTV footage of the house of Yogesh Jangam (P.W. 14), one man is seen going towards the public water tank by holding gunny bag in his both hands

filled with something. The persons present there suspected that the victim might have been kidnapped. He therefore, immediately dialed police helpline number 112 and informed that one girl child of 3 years has got missing and somebody has taken away her in a gunny bag.

**42.** Thereafter, he along with his cousin brother Atharv went by their moped towards bus stand to see whether victim has gone there. In the meantime, Samiksha sent him the screen shot of the CCTV footage in which that person was appearing. They continued the search of the victim and on the way, police constable Mangesh Kumbhar (PW 46) met them and they shown him the screen shot of that person which was sent by Samiksha. Then police went to the house of grandmother of the victim and after sometime, he received phone call from Samiksha that the person appearing in the screen shot has not kidnapped the victim and actually, it is found that he was carrying bread loaf with his hands in the gunny bag.

**43.** Thereafter, they returned to their house and they saw that Bhimrao Kamble was brought there, as he was found in the CCTV footage proceeding with the victim towards the cow shed of his uncle Sandeep Gayawal. People gathered there were making inquiry with accused but he was not giving any satisfactory answers. Police therefore, took him in custody and took him to the police station by their police vehicle. Some policemen remained at the spot. The victim was not traced out till then and her search was continued. He went to the cow shed and thereafter entered into the tin sheet shed adjacent to it and he saw the legs of the victim came out of the gunny bag put on her person. By seeing that scene, he got scared and ran out of the shed and told that fact to police present

there.

**44.** The statement of the grandmother of the victim (P.W. 10, Exh. 50) was recorded during investigation and her statement under Section 183 of BNSS (Exh. 51) was also recorded. She deposed before the Court about her family background and her two granddaughters staying with her to enjoy the holidays. The renovation work of the temple was going on and some labours were carrying bricks into the premises of the temple. She stated that after giving bath to the victim, she wore pink coloured T-shirt and blakish blue coloured leggings to the victim (Article 'A'). She gave poha to both her granddaughters at about 11.00 to 11.30 a.m. and both started playing in the house. At about 12.30 p.m. the victim expressed her wish to play on swing in front of the house of Omkar Gayawal. She therefore, took the victim there and two children of Gaurav Jangam (P.W.22) and a daughter of Sandeep Gayawal (P.W.18) were playing there. After returning home, her elder granddaughter also intended to go for playing on swing and she was allowed. At about 1.30 to 1.45 p.m. her both granddaughters returned home and they played together for some time. At about 2.30 p.m., she along with her both granddaughters and the neighbours Karekar uncle had lunch together and the victim ate slightly at that time.

**45.** At about 3.45 p.m., she noticed that her elder granddaughter and the daughter of Sandeep Gayawal are sitting on the steps of her house but the victim was not with them. Her elder granddaughter told her that she is playing in the premises of the temple. She therefore, went to the premises to see the victim but she was not found there. Sandeep Gayawal

and one lady were carrying the bricks. She asked them about the victim and lady (Bengali Bhabhi) told in Hindi that the victim was playing there for sometime and was talking to that person sitting there but she doesn't know where the victim went thereafter. She therefore, started searching the victim by visiting the houses of the neighbours but she was not found there. Neighbours gathered together and they started searching her and ultimately, Omkar Gayawal suggested to check the CCTV footage and accordingly the CCTV footage was checked wherein, the accused was found taking the victim to the cow shed of Sandeep Gayawal. She has stated the subsequent events as per the statements of the earlier witnesses. She identified the leggings of the victim which was gagged into her mouth.

**46.** Yogesh Jangam (P.W. 14, Exh. 61) is also an important witness and the link to reach to the accused was found in the CCTV footage installed at his house. There were three cameras, first covering the counter and internal part of the shop Satish Sweets Home, second covering the tables kept for the customers and third covering the road outside the shop. Those cameras were installed through Mohseen Shaikh (PW-6) who was maintaining the said CCTV system. There was DVR but no display screen and the access of the CCTV system was given to the mobile phones of him and his brother Gaurav Jangam (PW-22).

**47.** The accused had purchased gathi shev of Rs. 20/- from him in the morning and he was captured in the CCTV footage at that time. He identified muddemal gathi shev (Article 'H') on the basis of its size and quality. Speaking about the events took place on 01/05/2026, he states that after knowing that the victim has got missing, he started checking the

CCTV footage of the CCTV system installed at his house in his mobile phone. He saw that at about 3.12 p.m. the accused and the victim were coming together from the public water tank and went towards cow shed of sandeep Gayawal. When they reached near Munjoba temple at the corner of the house of Sandeep Gayawal, the accused took the victim by holding her hand towards the cow shed. At about 3.51 p.m., the accused seen alone coming from the cattle shed and going towards the public water tank.

**48.** He deposed the subsequent events as per the statements of earlier witnesses. He was one of them to enter into the tin sheet shed with others when Omkar Gayawal told that he has seen the legs of the victim and he narrated the situation of the victim lying there. The blue coloured cloth was gagged into her mouth and there were blood stains on her face. The water bottle which the accused was holding in his hand while coming to the cow shed with the victim was also lying there and some gathi shev was also lying there. There were blood stains at that place. During investigation, his statement was recorded by police and also his statement under Section 183 of BNSS (Exh. 64) was recorded. The DVR of the CCTV system installed at his house and shop were seized by police under panchnama (Article 'D' and 'T' respectively). The screen shots of the concerned CCTV footage and the photographs of the victim snapped by police attached with spot panchnama have been identified by him. He also identified the photographs of the screen shots of the CCTV footages which were marked Article 'J, K and L'.

**49.** The evidence of three children namely Mohammad Aga (P.W.

15, Exh. 65), Ashan Ansari (P.W. 16, Exh. 67) and Rudra Salunke (P.W. 17, Exh. 69) is of great importance. The test identification parade (TI parade) of the accused was conducted and these three children have identified him, as they had seen the accused sitting on the step of Shriram temple and thereafter, he was seen with the victim in the tin sheet shed. These children were already knowing the accused, as he was working as a sweeper in their school. The competence to depose before the court of these children was duly verified and they were found to be competent to speak the truth.

**50.** These children are unanimous in their statements that they were playing hide and seek game within the premises of Shriram temple and the victim was playing alone there and the accused was sitting on the step of the temple. He got annoyed of them playing there and he started pelting the piece of brick at them and therefore, they ran away. This incident is captured in the CCTV footage.

**51.** They further state that while playing nearby the tin sheet shed, they saw the accused sitting with the victim in that shed and he started pelting stones at them and to retaliate him, they pelted stones on that tin sheet shed. Those stones are seized under panchnama. Rudra Salunke identified those stones (Article 'M'). Their statements under Section 183 of BNSS were recorded. The statement of Mohammad Aga is at Exh. 66, the statement of Ashan Ansari is at Exh. 68, the statement of Rudra Salunke is at Exh. 70.

**52.** Sandeep Gayawal (P.W. 18, Exh. 71) was the owner of cow

shed and tin sheet shed, where the alleged incident took place. His statement under Section 183 of BNSS (Exh. 72) was also recorded. The accused was working with him to carry bricks in the premises of Shriram temple. He has deposed that on 30/04/2026 one of his cows delivered a calf. He stated the location of his house, cattle shed, tin sheet shed, Munjoba temple and the road going towards the public water tank and Shriram temple, which is appearing in the CCTV footage. He was knowing the victim, her elder sister and their grandmother as she was his neighbour.

**53.** It has come in his evidence that the renovation work of Shriram temple was going on and on 25/04/2026 the truck of bricks was unloaded in front of the temple. He along with Jadhav uncle, Pawa uncle, the accused, Chotu and Bangali Bhabhi were doing the work carrying bricks into the premises of the temple on daily wages. The accused had joined the said work from 26/04/2026. During that period, the accused was staying in his tin sheet shed and on 25/04/2026, he stayed at the hotel where he worked on daily wages. He had kept his sack and bundle of clothes on a cot in that tin sheet shed. He was not knowing that fact and that fact was brought to his notice by his brother Sanjay, who asked this witness to tell the accused to remove his belongings from that shed. The accused worked with him till 28/04/2026. On 30/04/2026 the contractor paid the wages of Rs. 100/- to the accused and told the other labours to continue the work and their wages will be paid online. The accused did not stay in the shed on 30/04/2026.

**54.** Speaking about the events took place on 01/05/2026, he

deposed that at about 1.00 p.m. accused came and sat on the step of the temple. After 10 minutes, the victim came out of the house and started playing in the premises of the temple. He asked the accused to take away his belongings kept in the tin sheet shed but he told that he is going to stay in that shed in the night. He expressed anger asking to remove his belongings and therefore, he went to the shed and brought his belongings and kept at one side of the temple. The victim was playing there even at that time.

**55.** At about 2.30 p.m., the labours took lunch break and after having lunch, he returned to the work place within 10 to 20 minutes and at that time also, the victim was playing there and the accused was sitting on the steps of the temple and his belongings were with him. He continued the work along with other labours. At about 4.00 p.m. the grandmother of the victim asked him that the victim is not appearing in the premises and I should see where she is. He and his family members started searching for the victim. At about 5.00 p.m., he saw rush near Munjoba temple. He along with Omkar Gayawal, Atharv Gayawal, Gaurav Jangam, Mohseen Shaikh and Aba Kamble decided to verify the CCTV footage of the house of Gaurav Jangam to trace the victim and ultimately, the accused was seen in the CCTV footage taking the victim with him from public water tank and going towards the cattle shed by the approach way at Munjoba temple. After sometime, the accused was found returning alone and going towards the public water tank.

**56.** Getting this clue, he along with Sandeep @ Aba Kamble went to search the accused and they saw, he was sitting below the arch of

Baneshwar chowk near Kalubai temple. He asked the accused as to what he has done with the victim. The accused told that he has committed mistake and has killed the victim. They took him on their motorcycle and brought him near Munjoba temple. There was rush of people at that place and grandmother of the victim and two policemen were also present there. The ladies present there asked the accused as to where the victim is but he did not give any satisfactory answers about the same. Police apprehended the accused and took him away. All the persons gathered there continued to search the victim. He was searching her in nearby fields and at that time, Shirke aunt came and told him that the dead body of the victim was found in his tin sheet shed and thus, he returned to that shed and saw the victim lying there dead.

57. Vaishali Zore (P.W. 19, Exh. 74) was the member of Mahila Dakshata Samittee in Rajgad Police Station. She was informed about the unfortunate incident took place at Nasarapur and she was called there to assist the mother of the victim in recording her complaint. She accordingly went there and saw that the mother of the victim was in mental shock and was not in a position to speak. After sometime, on persuasion by the people present there, she cooled down and got strength to give complaint before police and accordingly her complaint (Exh. 24) was recorded. The statements of three children namely Mohammad Aga, Ashan Ansari and Rudra Salunke were also recorded by police in her presence in question and answer forms. Police seized the stones pelted by those children on the tin sheet shed in which the incident has taken place. Two panch witnesses were present at that time and all of them climbed up on the roof of that shed by using ladder and Rudra Salunke showed those four stones pelted

by them and they were seized under panchnama.

**58.** Gaurav Jangam (P.W. 22, Exh. 82) is the brother of Yogesh Jangam (P.W. 14) who was running the Satish Sweet Home and his deposition is similar to the deposition of his brother Yogesh Jangam. He was the witness who saw the accused entering into the sweet shop at about 7.40 a.m. 01/05/2026 and he purchased gathi shev of Rs. 10/- from him. He was his regular customer and therefore, he was knowing him. He had taken the part in searching the victim and verifying the CCTV footage. He also saw the accused coming with the victim from public water tank and going towards the cattle shed of Sandeep Gayawal by holding her hand.

**59.** Uttam Dimble (P.W. 23, Exh. 85) was that person who initially seen in the CCTV footage carrying something in gunny bag holding it by his both hands. On his search, he was found and it was disclosed that he was carrying bread loafs to celebrate the birthday of his grandson in the evening.

**60.** Raju Gupta (P.W. 32, Exh. 140) was the chef in the sweet Furness of Jangam brothers. He deposed that he took lunch at 3.00 to 3.15 p.m. and during that time, he heard the scream of a child but as the children were playing nearby, he did not pay hid to it. After having lunch, some roties were left and therefore, he went to feed those roties to the cows in the cow shed of Sandeep Gayawal. When he was feeding the roties to cow, he heard sound of pelting stones on the tin sheet adjacent to that cattle shed. He saw there but he could not notice anything. This

witness perhaps would have gone few steps further to the tin sheet shed adjacent to cow shed, the innocent victim could have been saved. The movements of this witness going to the cattle shed with roties and returning back has been captured in the CCTV footage. The CCTV camera installed at the house of Jangam brothers was audio-video camera and the scream of the child and sound of pelting stones on the roof of the tin sheet are clearly audible, when they were played before the court. With the help of ocular evidence of these witnesses, the prosecution has coordinated the electronic evidence in the form of CCTV footage, which fully corroborates their version.

**B. Medical Evidence :-**

61. Dr. Sachin Rashinkar (P.W.7, Exh. 43) was the local doctor who examined the victim soon after she was found lying in the tin sheet shed and declared her dead and issued the death certificate (Exh. 44) accordingly.

62. Dr. Harish Tatiya (P.W. 24, Exh. 87) was the Associate Professor, Forensic Medicine Department, Sassoon Hospital, Pune. He conducted autopsy on the victim on 02/06/2026. The dead body was forwarded by Rajgad police with the requisition letters (Exh. 88 to 91) along with inquest panchnama (Exh. 18). He conducted the postmortem examination with the help of his team. The panch witnesses Vidya Mhatre, Amruta Shah and the uncle of the victim Harshad Kulkarni were present at that time. He recorded his findings in the PM notes as follows-

“During genitals examination we noticed that Labia-Intact.

No evidence of any injury or redness.

Hymen – Perihymenal redness noted inferiorly from 04 O'clock to 06 O'clock position. No evidence of any tear of hymen and posterior fourchette. No evidence of any hymenal tag.

Anal opening – Dilated, of diameter 04 cm, with evidence of abrasion at 06 O'clock position, of size 01 cm x 01 cm, surrounded by laceration of size 02 cm x 01 cm x mucosa deep, irregular, red, with evidence of fecal purging”.

**63.** He recorded opinion that the injuries mentioned above are antemortem and fresh at the time of death. The injuries mentioned above can be possible due to act of penetration. He also noticed the following surface injuries as noted in column No. 17 of the postmortem report -

1. Contusion, present over left side of forehead, situated 1.5 cm above lateral end of left eyebrow, and 4.5 cm left lateral to midline, of size 0.2 cm x 0.2 cm, circular, red.
2. Contusion, present over left side of forehead, situated 0.5 cm above medial end of left eyebrow, and 0.5 cm left lateral to midline, of size 0.5 cm x 0.2 cm, oval, red.
3. Contusion, present over right side of forehead, situated 02 cm above medial end of right eyebrow, and 02 cm right lateral to midline, of size 0.2 cm x 0.2 cm, circular, red.
4. Contused abrasion, present over right side of forehead, situated 1.5 cm below injury no. 3, of size 0.5 cm x 0.2 cm, oval, red.
5. Multiple, parchmented, pressure contused abrasions, noted over area involving tip of nose, ala of both nostrils, columella of nose, adjacent areas surrounding both ala and both naso-labial groves, over an area of size 06 cm x 3.5 cm, of sizes varying from 2.5 cm x 02 cm to 0.5 cm x 0.5 cm, irregular, red.

6. Contused abrasion, present over upper lip, extending to both sides of midline, of size 05 cm x 0.5 cm, irregular, hard, parchmented, red.
7. Contused abrasion, present over lower lip, extending to both sides of midline, of size 03 cm x 0.5 cm, irregular, hard, parchmented, red.
8. Contusion, present over chin, 0.5 cm right lateral to midline and 04 cm below lower lip, of size, 01 cm x 01 cm, irregular, red.
9. Linear contused abrasion, present over neck on left side, situated 03 cm left lateral to midline and 02 cm below left angle of mandible, placed oblique infero-medially, of length 1.5 cm, red.
10. Contusion present over chest, over sternal region, along midline, extending to both sides, situated 6.5 cm below supra-sternal notch, of size 06 cm x 04 cm, irregular, red.
11. Linear abrasion, horizontal, interrupted, present over left forearm, in middle third, posteriorly, situated 5.5 cm above left ulnar styloid process, of length 05 cm, red.
12. Two linear abrasions, present over medial aspect of right elbow, situated 13 cm above right ulnar styloid process, placed vertically and 0.5 cm apart, parallel to each other, each of length 2.5 cm, brown scab present.
13. Linear abrasion, present over left forearm, in upper third, posteriorly, placed oblique infero-medially, situated 12 cm above left ulnar styloid process, of length 1.5 cm, red scab present.
14. Abrasion, present over, right leg, posteriorly, in middle third, situated 11.5 cm above right heel, of size 0.1 cm x 0.1 cm, circular, brown scab present.
15. Abrasion, present over, right leg, posteriorly, situated

2.7 cm below injury no. 14, of size 0.5 cm x 0.5 cm, circular, brown scab present.

16. Abrasion, present over, left intra-malleolar region, situated 04 cm anterior to left lateral malleolus, of size 0.1 cm x 0.1 cm, circular, brown scab present.
17. Two abrasions, noted over right side of nose, situated 1.5 cm below nasion, placed 0.2 cm apart, superior one of size, 0.5 cm x 0.2 cm, circular, and inferior one, linear of length 0.5 cm, pale yellow.
18. Abrasion, present over mental region of chin, on left side, situated 05 cm below lower lip, of size 02 cm x 01 cm, irregular, pale, yellow.

**64.** He has given his opinion regarding the above injuries as follows -

- a) Injury no. 1 - 3, 8 and 10 of column No. 17 can be possible by hard and blunt kind of weapon/impact.
- b) Injury no. 4 - 7 of column No. 17 can be possible by hard and blunt kind of weapon/impact having rough surface.
- c) Injury no. 9 and 11 - 13 of column No. 17 can be possible by hard and pointed kind of weapon/impact including nail scratch.
- d) Injury no. 14 - 18 of column No. 17 can be possible by hard and rough kind of weapon/impact.
- e) The injury no. 1 to 16 of column no. 17 are ante-mortem.  
Injury no. 1 to 11 of column no. 17 are fresh at the time of death.
- f) Injury no. 12 and 14 - 16 of column no. 17 are about 2 - 4 days old at the time of death.
- g) Injury no. 13 is column no. 17 is about 1 - 2 days old at the time of death.
- h) Injury no. 17 and 18 of column no. 17 are postmortem.

65. He has distinguished fresh and old injuries on the basis of the colour of injuries. On internal examination, he noticed the following injuries as mentioned in column No. 20(1) of the PM notes-

“Hematoma noted in the chest wall, corresponding to injury no. 10 of column no. 17, of size 06 cm x 04cm, irregular, red. Rest is intact. No evidence of any fracture. He noticed injuries as hematoma present over left side of sterno-hyoid muscle, of size 1.5 cm x 1.5 cm irregular, red, corresponding to injury no. 09 of column no. 17. Further, a contusion noted at base of tongue, on left side, of size 02 cm x 02 cm, irregular, red. On further dissection, there is no evidence of any other hematoma and fractures of bone/cartilages of neck block.

On removal of neck block, cloth piece (Pant) noted stuffed inside mouth in such a manner that it is occluding whole of the pharynx, the cloth feels firm in consistency on palpation, is crumpled, surrounded with mucosal secretions and blood, removed from oral cavity with moderate amount of force.

On removal of the cloth (Pant) from the mouth, it is found to be in the inverted, inside out fashion, dark blue in color, of total length 35.5 cm and width at waist 17.5 cm, and show blackish strips at distal parts of size 6.5 cm x 05 cm.

The area on left side, corresponding to legs, shows whitish stains at places. No evidence of any specific label at waist area.

There is evidence of small tears at front aspect, near waist line, on right side, over an area of 02 cm x 02 cm and another tear noted on left side, 02 cm above black strip, of size 1.5 cm x 1.5 cm. No evidence of any obvious blood

stains or any other visible stains surrounding tears.

On reverting the pant in wearing fashion, there is design of apple with letters A P P L E, placed in vertical orientation, on left side of leg area, white in color. There is evidence of few loose hairs over the pant at places, black to brown in colour, of lengths varying from 3.5 cm to 12.5 cm”.

66. He further deposed that the both the lungs were congested and showed petechial hemorrhages at places red. A contusion noted over pericardium, anteriorly, of size 3.5 cm x 02 cm, irregular, red. Pericardial cavity contains about 10 cc reddish thin transparent fluid. Petechial hemorrhages noted over heart at places, red, with evidence of contusion over left ventricle, in upper part, antero-laterally, of size 03 cm x 03 cm x 0.2 cm, irregular, red. Chambers filled with dark red fluid blood. Weight of heart – 55 grams. All other internal organs were congested. Stomach contained about 50 grams yellowish, whitish, semi solid, semi digested food material, no abnormal smell perceived, mucosa congested. Based on the contents of stomach probable time of death was given within the time range of 4 to 6 hours after consumption of last meal.

67. On request by police, he had preserved viscera and articles as follows -

• **Viscera preserved for chemical analysis as follows:**

Bottle 1) Stomach and part of intestine with its contents in saturated solution of NaCl.

Bottle 2) Pieces of liver, spleen, kidneys in saturated solution of NaCl.

Bottle 3) Blood.

• **Articles preserved for chemical analysis as follows:**

Bottle 1) Scalp hairs.

Bottle 2) Finger nail clippings.

- Bottle 3) Blood soaked gauze for grouping.
- **Articles preserved for detection of semen/spermatozoa and necessary analysis as follows:**
    - Bottle 1) High vaginal swab.
    - Bottle 2) High vaginal smear.
    - Bottle 3) Low vaginal swab.
    - Bottle 4) Low vaginal smear.
    - Bottle 5) Anal swab.
    - Bottle 6) Anal smear.
    - Bottle 7) Oral swab.
    - Bottle 8) Oral smear.
    - Bottle 9) Swab from right forearm – suspected stain area.
    - Bottle 10) Smear from right forearm – suspected stain area.
    - Bottle 11) Swab from left forearm – suspected stain area.
    - Bottle 12) Smear from left forearm – suspected stain area.
  - **Article preserved for necessary comparative analysis as follows:**
    - Bottle 1) Foreign hairs recovered from pant.
  - **Articles preserved for DNA analysis as follows:**
    - Bottle 1) Piece of sternum bone.
  - **Articles preserved for necessary comparative analysis as follows:**
    - Bottle 1) Soil particles and onion peels recovered from body.
  - **Articles preserved for necessary analysis as follows:**
    - Bottle 1) Cloth piece (pant) recovered from mouth.

(All twenty two (22) bottles packed, sealed, labeled, and handed over to police on duty).

68. On the above examination he recorded his opinion as to cause of death as follows -

**“Death due to asphyxia due to combined effects of smothering and gagging, associated with blunt trauma to chest, viscera, articles and samples preserved for chemical and necessary analysis (Homicidal assault)”.**

69. The postmortem notes were proved in his evidence and

marked Exh. 92 whereas, advance death certificate is marked Exh. 93. As per the requisition letters, he had collected the articles and those articles were sent for C.A. report in sealed condition. The analysis was carried the the C.A. reports were submitted which he identified to be correct and they are marked Exh. 94 to 102. The viscera was preserved and other samples were taken and they were sent for chemical analysis. After analysis, the reports were submitted which he identified and they are marked Exh. 103 to 112.

70. On 11/05/2026 the I.O. issued letter to him for his opinion as to the time of death and injuries (Exh. 113) and he recorded his opinion on the said point vide Exh. 114 as follows -

1. Considering the history provided by you in your letter (Ref no.1) and based on the postmortem examination findings, mentioned in medico legal postmortem examination report of deceased (Ref no. 2), it is quite possible that the deceased might have succumbed to **death between 03:10 pm to 04:00 pm of 01/05/2026.**
2. Injury no. 1 - 3 and 8 of column no. 17, of medico legal postmortem examination report of deceased (Ref no. 2), could have been possible **due to forceful impact from fingers of hand of average adult individual**, or like manner, during scuffle or resistance. Further correlation with alleged history is needed.
3. Injury no. 4 - 7 of column no. 17, of medicolegal postmortem report of deceased (Ref no. 2), could have been possible **due to forceful impact from cloth (pant) material, with use of hands of average adult individual**, or like manner, during scuffle or resistance. Further correlation with alleged history is needed.
4. Injury no. 10 of column no. 17, along with internal injuries mentioned under column 20 (1), 20 (6) and 20 (7) of medico legal postmortem report of deceased (Ref no. 2), could have been possible **due to forceful impact, like blow, using closed fist, bend of**

**elbow, bend of knee, of an average adult individual**, or like manner, during scuffle or resistance. Further correlation with alleged history is needed.

5. For injury no. 9 and 11 of column no. 17, of medicolegal postmortem report of deceased (Ref no. 2), kindly refer to the opinion given in the postmortem report (Ref no. 2).
6. Injuries mentioned in column It is at no. 15 of medicolegal postmortem report of deceased (Ref no. 2), could have been possible due to an **act of penetration by average adult individual, using penis, finger, object or like manner**. Further correlation with alleged history and findings of analysis reports from Forensic Science Laboratory is needed.
7. Injury no. 17 and 18 of column no. 17, of medicolegal postmortem report of deceased (Ref no. 2), could have been possible due to persistent pressure of cloth, using hands of average adult individual, even after death of deceased. Further correlation with alleged history is needed.

71. The I.O. issued another letter dated 11/05/2026 (Exh. 15) for final cause of death certificate and accordingly it was issued (Exh. 116) recording the opinion as follows-

**“Death due to asphyxia due to combined effects of smothering and gagging, associated with blunt trauma to chest (Homicidal assault), with evidence of recent act of sexual assault in terms of vaginal penetration, anal penetration and seminal discharge over body.”**

72. He further deposed that the entire postmortem examination was video graphed through the Videographer Avinash Damare (PW-13). The video was copied on the memory card and he issued the same with certificate under Section 63(4)(c) of BSA. The witness produced the said memory card (Exh. 118). The 18 photographs of the deceased snapped at the time of inquest panchnama were referred to him and he states that he

has made reference of those photographs in para 8, 13 and 20(3) of the PM notes. The cloth was gagged upto the opening of the air inlets on internal aspects which was sufficient to stop breathing and thereby to cause death. The injuries No. 5, 6, 7 in column No. 17 were due to smothering and were sufficient to cause death. The injury No. 10 on the chest along with corresponding injuries in column No. 20(1), column No. 20(6) and column No. 20(7) have contributed to the cause of death. The injuries No. 17 and 18 mentioned in column No. 17 were postmortem caused due to persistent pressure even after death. He removed the cloth gagged into the mouth of the victim at the time of PM examination and he identified it to be Article 'F'.

**73.** Dr. Snehil Singh (P.W. 25, Exh. 119) was the Psychiatric attached to Sassoon Hospital and the accused was referred to him for examination of his mental health with forwarding letter (Exh. 120). He conducted the examination on 22/05/2026 and found that the accused does not have any active psychopathology and he is of sound mind and he is fit to stand for trial before the Court. He produced the clinical notes (Exh. 121/1 and 2). The psychiatric assessment report is at Exh. 122.

**74.** Dr. Rushikesh Solunke (P.W. 26, Exh. 123) was also the psychiatric attached to Sassoon Hospital and the accused was referred to him on 03/05/2026 with forwarding letter (Exh. 124) for his potency test and accordingly he carried the said test and issued clinical notes cum certificate (Exh. 125/1 and 2). On examination he found that the accused has potency.

75. Dr. Ashish Pathak (P.W. 27, Exh. 126) was attached to Forensic Medicine Department of Sassoon Hospital and he has deposed that the accused was referred to Sassoon Hospital for his potency test which was carried out by the concerned doctors namely Surgery Expert Dr. Bhushan Telang (PW-29), Psychiatric Expert Dr. Rushikesh Solunke (PW-26) and Urology Expert Dr. Harshad Toshniwal (PW-28) and thereafter, he was referred to Forensic Medicine Expert for giving his opinion. Based on the findings recorded by the above doctors, he recorded his final opinion that, **'There is nothing to suggest that the said individual is incapable of performing sexual intercourse at present'**. The report (Exh. 127) was accordingly issued. Dr. Harshad Toshniwal (P.W.-28, Exh. 128) recorded his opinion that, **'There is no any genital abnormality detected with normal secondary sexual characteristics'**. He issued his opinion (Exh. 129). Dr. Bhushan Telang (P.W. 29, Exh. 130) carried general examination and genito-urinary examination of the accused to determine the primary and secondary sexual characteristics. The genito-urinary examination of the accused was **found normal and he was not diabetic**. Accordingly, he issued his opinion (Exh. 131).

76. Dr. Anil Giri (P.W. 30, Exh. 132) was the Medical Officer attached to District Civil Hospital, Aundh, Pune and the accused was referred to him for his medical examination on 03/05/2026 vide referral letter (Exh. 133). He was also requested to take the samples of the blood, hair and nails of the accused for C.A. examination and DNA profiling vide request letter (Exh. 134). The examination was carried and the samples were taken and he issued the OPD patient record (Exh. 135). He handed over the samples in sealed condition by filling up the identification form of

the accused with his photograph thereon (Exh. 136). He identified the accused on V.C. screen.

77. This medical evidence clearly shows that the victim was sexually assaulted and brutally killed by the strong built man and the assaults were caused even after the death of the victim. There was clear evidence of vaginal and anal penetration and the Experts have expressed the possibility of oral penetration. The assaults caused and the leggings gagged into the mouth of the victim were sufficient to cause her death. Her death was homicidal.

**C. Electronic Evidence :-**

78. Mohseen Shaikh (P.W.- 6, Exh. 34 ) has discharged dual function. He was the CCTV operator and the panch witness on totalsix panchnamas. His statement was recorded during investigation by police and his statement under Section 183 of Cr.P.C. was also recorded before the Court (Exh. 35). He had installed the CCTV footage at Sweet Furness of Yogesh Jangam and he was having access of that CCTV footage to his mobile phone. There was no CCTV screen attached to the CCTV system and its access was also given to the mobile phones of Yogesh Jangam and his brother Gaurav Jangam. The real time cameras were installed to the said CCTV system. He was the witness who had accessed the said CCTV footage to his mobile phone wherein, the accused was found taking the victim with him towards the cow shed of Sandeep Gayawal. He has stated about the subsequent events took place thereafter, as stated by the earlier witnesses.

**79.** He has further deposed that after noticing the fact that the accused has taken the victim with him to the cow shed, Sandeep Gayawal and Sandeep Kamble went to search the accused. In the meantime, police came there and the nearby persons also gathered there asking as to what happened. He apprised them of missing of the victim and showed them the CCTV footage in his mobile phone. Sandeep Gayawal and Sandeep Kamble brought the accused at that place and people gathered there started asking him as to where the victim girl is. But the accused was not giving satisfactory answer to that question. People started disturbance and therefore, police took the accused with them.

**80.** He has also acted as a panch witness on six different panchnamas in relation to the electronic evidence collected during the investigation. On 03/05/2026, he along with another panch Rupesh Ovhal was called at Rajgad police station and the memory card of Hickvision company (Article 'C') of the CCTV installed on the grocery shop of Safal Kuvad was seized and sealed in their presence under panchnama Exh. 36. On 09/05/2026 he acted as a panch along with Bhagyesh Gudli to reopen the seal of the said memory card for its analysis in presence of the Cyber expert Pranav Palange. The seal was removed and the memory card was handed over to the Cyber expert under panchnama Exh. 37. On the same day, he was again called to the Rajgad police station at about 5.00 p.m. along with another panch Mahesh Jagtap. The memory card was analyzed by the Cyber expert Pranav Palange in their presence and the data was copied on five pen drives by obtaining the hash values of the original data and the copied data. The screen shots of certain footages were also taken and their printouts were obtained. Those pen drives, hash value

certificates and printouts of the screen shots were seized in their presence and the memory card was again sealed in an envelop.

**81.** The said pen drive was taken out by removing the seal before the Court and the files of the CCTV footage were played on the screen of the Court and it was found that the accused and the victim were seen wandering near the public water tank. The panchnama (Exh. 38) was accordingly prepared at that process.

**82.** He further stated that on 07/05/2026 he was called as a panch witness with Aftaf Qureshi who was the another panch. The DVR of CCTV system installed at Satish Sweet Home was seized under panchnama (Exh. 40) in their presence and the said DVR was kept in sealed cover which was opened before the Court and DVR was marked Article 'D'.

**83.** On 10/05/2026, he was called to Rajgad police station with another panch Bhagyesh Gudli for drawing reopen panchnama of the DVR seized on 07/05/2026 (Article 'D') as the data in that DVR was to be analyzed by the Cyber expert Pranav Palange who was present there. The envelop was opened, DVR was handed over to Pranav Palange for analysis and the panchnama (Exh. 41) was accordingly drawn. On 11/05/2026 he was again called as a panch witness along with another panch Bhagyesh Gudli. The data in the DVR (Article 'D') was analyzed by the Cyber expert and he had taken the screen shots of the relevant CCTV footage and has obtained the hash values. It was seen in that CCTV footage that the accused was moving in Satish Sweet Home and outside the same. Accordingly, the panchnama (Exh. 42) was drawn. The relevant data was

copied on five pen drives which he identified and one of the pen drives produced before the Court was in sealed condition received after analysis by R.F.S.L. Pune. That pen drive was played before the Court and the concerned CCTV footage was seen wherein, the accused was found wandering in an outside the Satish Sweet Home.

**84.** He also acted as a panch witness on the panchnama of seizure of memory card of 360 degree CCTV camera installed outside the grocery shop of Safal Kuvad. That memory card was seized on 03/05/2026 and it was sealed in his presence. That seal was removed in his presence on 09/05/2026 as that memory card was to be analyzed by the Cyber expert Pranav Palange who was present there. The reopen panchnama was accordingly drawn. The Cyber expert Pranav Palange analyzed the data in that memory card and it was copied on five pen drives and certain screen shots of relevant CCTV footages were taken. Those pen drives, hash value certificates and the screen shots were seized and sealed in his presence.

**85.** On 07/05/2026 the DVR of the CCTV system installed at Satish Sweet Home was seized in his presence. On 10/05/2026 the reopen panchnama was drawn as the data in the hard disk in the said DVR was to be analyzed by Cyber expert Pranav Palange. The data was analyzed by him. On 11/05/2026 the screen shots of relevant CCTV footages were obtained and their printouts were taken and accordingly the panchnama was drawn.

**86.** Nachiket Dandekar (P.W. 51, Exh. 104) was the Cyber Expert who has accompanied the investigation team at various stages. He was

having 15 years experience in Cyber Security, Cyber Crime Investigation and Digital Forensic and had extended his services in more than 1000 cases as the Cyber Expert. His services were availed by the investigating agency by letter (Exh. 305). Pranav Palange (PW-54) was his associate. They visited the house of Yogesh Jangam on 03/05/2026 to examine the CCTV footage under panchnama (Exh. 217). Out of three cameras, camera No. 2 was covering the road going towards the public water tank and Shriram temple. The CCTV system was in working condition and the data was being stored in the hard disk in the DVR. The storage was proper and continuous. He analyzed the data in the hard disk and he found in camera No. 2 that the accused is coming with the victim from the public water tank and he went with her towards the cow shed of Sandeep Gayawal. This footage was found to be relevant to the crime and therefore, he extracted that CCTV footage in a pen drive which was new pen drive and there was no data stored therein earlier. The data was extracted as it is without any manipulation. The pen drive containing the said data was handed over to I.O. which was seized and sealed on the spot. He identified the said pen drive (Exh. 218). During the process, the hash values were recorded and the hash value certificate (Exh, 306) has been issued. He also issued printed copies of thirteen screen shots of the relevant position in the said CCTV footage, along with the hash value certificate (Exh. 307 and 308). The DVR containing hard disk and the pen drives were seized and sealed by police under panchnama.

**87.** On 04/05/2026, the said DVR and hard disk was handed over to him for analysis in sealed condition and he accordingly analyzed the data stored in the hard disk. He extracted the entire CCTV footage dated

01/05/2026 of camera No. 2 on a pen drive and five cloned copies of that pen drive were prepared. He also prepared the script of his analysis which was made part of the panchnama (Exh. 253). Omkar Gayawal had assisted him in identifying the person and situation depicted in the CCTV footage. After analysis, he handed over the script, five pen drives, DVR and hard disk to the I.O. and they were seized and sealed under panchnama (Exh. 253). One of the pen drives produced with the charge-sheet (Exh. 254) was identified by him.

**88.** During investigation, I.O. and Forensic Expert Swapnali Waghmare (PW-48) had snapped certain photographs in their mobile devices and he extracted the data of those photographs from their mobile devices and analyzed the same. He issued seven hash value certificates pertaining to those photographs. He obtained five printouts of twenty-six photographs each, which he identified and also identified his hash value certificate (Exh. 309). Those photographs are at Exh. 264/1 to 130. He also analyzed the photographs snapped by some of the members of the investigation team namey PSI Ajit Patil, PC Mangesh Kumbhar (PW-41) and PHC Audumbar Adwal in their mobile phones. Ajit Patil had snapped four photographs and he made five copies of each of them and they were of the victim lying on the spot. Mangesh Kumbhar had snapped two photographs and he prepared five copies of those photographs each whereas, Audumbar Adwal had snapped one photograph and the five copies of the same were also prepared. The entire data of those photographs was copied on three pen drives and he issued the hash value certificates regarding those photographs and they are at Exh. 310 to 318. He stated that the integrity of the above electronic data in the original

devices was maintained while procuring and analyzing the data in their pen drives.

**89.** He was present in the police station when the gait panchnama of the accused was drawn. That process was video-graphed and the memory card of that camera was handed over to him for cloning the memory card and issuing hash value certificate. That memory card is at Exh. 212. Vaibhav Sawant had snapped the photographs of the clothes of the accused in his mobile phone and he extracted the data from that mobile phone and obtained the hash value and issued the hash value certificate (Exh.319). He prepared five copies each of four extracted photographs and they are at Exh. 320. There was foot mark of the victim on the shirt of the accused and he copied the said data in pen drive and issued that pen drive to the I.O. which is Exh. 321. PHC Madane had snapped the photographs of the victim at the time of drawing inquest panchnama in his mobile phone and he extracted the data from that mobile phone and obtained the hash value and issued the hash value certificate (Exh. 322). He made five copies of each of the seven extracted photographs. They are at Exh. 323. The data was copied on the pen drive (Exh. 324).

**90.** PSI Madhuri Zendge (PW-50) had snapped the photographs of the place of incident while drawing spot panchnama in her mobile phone and he extracted the data from that mobile phone and obtained the hash value and issued the certificate under Section 63(4)(c) of BSA (Exh. 325). He made five copies of each of four extracted photographs (Exh. 303). He also copied a data in a pen drive and issued that pen drive to the

I.O. (Exh. 302). He also issued the clone certificate of the said memory card (Exh. 212) and the clone certificate (Exh. 326). He also issued pen drive of the data in memory card (Exh. 192). The entire CCTV footage was extracted in one pen drive and the hash value was obtained and its certificate was issued (Exh. 327). He obtained 170 printed copies of the concerned CCTV footage (Exh. 328/1 to 170). The data extracted was analyzed by his associate Pranav Palange and the certificate under Section 63(4)(c) was issued in that respect (Exh. 319) and the pen drive (Exh. 330). The pen drives, memory cards and the hard disks were played on the screen of the Court and the contents therein have been identified and admitted by him. He also states that the data in original devices was not tampered with and its integrity was not compromised. The CCTV operator Mohseen Shaikh (PW-6) has acted as a panch witness during the entire aforesaid process.

**91.** Pranav Palange (P.W.- 54, Exh. 342) deposed that he assisted his senior Nachiket Dandekar in relation to the digital evidence including CCTV data extraction, mobile data extraction and its analysis. He ensured that the original data is not interfered with tampered or compromised and their integrity was carefully maintained. On 05/05/2026, he along with his team went to Grampanchayat Nasarapur and verified the CCTV installed there which was in working condition and there was five minutes gap between the real time and the time recorded in the CCTV footage. He extracted the data dated 01/05/2026 stored of that CCTV on a pen drive and its clone copies were made in four other pen drives by using the Write Blocker Software, ensuring that there shall not be any change in the original CCTV footage and the copied CCTV footage in the pen drive. He

admits that the data in the pen drive (Exh. 221) was correct when the CCTV footage was played on the screen of the Court and it was found to be correct as per the original data in NVR.

**92.** He thereafter, went to Rajgad Jewellers and by following the same procedure, extracted the relevant CCTV footage in a pen drive. That CCTV footage was the real time recording and there was no difference in time. After extracting data, he prepared clone copies of the same in four pen drives by using Opentext Tableau TX1 software ensuring that there shall not be any change in original CCTV footage and its copy (Exh. 222). The contents of the pen drive were played on the screen of the Court and he identified it to be as per the original data.

**93.** Thereafter, the data of the CCTV footage at Jama Masjid dated 01/05/2026 was extracted on a pen drive and four clone copies thereof were prepared by using Opentext Tableau TX1 software ensuring that there shall not be any change in original CCTV footage and its copy (Exh. 223). The contents of the pen drive were played on the screen of the Court and he identified it to be as per the original data. The pen drives of the extracted data were preserved in sealed cover and he issued the hash value certificates Exh. 343 to 345 pertaining to the same.

**94.** On 09/05/2026, he along with his senior Nachiket Dandekar went to Rajgad police station, where police produced before them the sealed envelop containing memory card of CCTV footage of the shop of Safal Kuwad. Seal was broken under reopen panchnama (Exh. 37) and that memory card was handed over to them for analysis wherein, the

victim was found playing there and the movements of the accused were also noticed but from long distance. The clone copy of the said data was made and the screen shots of relevant CCTV footage were obtained. After completing the analysis, police seized and sealed that memory card under panchnama (Exh. 38). He identified eight screen shots of that CCTV footage which is the part of the said panchnama. He identified the memory card (Exh. 346).

**95.** He further deposed that on 09/05/2026, during night, he went to Grampanchayat Nasarapur with a police team headed by PSI Madhuri Zende. There were two CCTV systems installed at Grampanchayat area and he verified the NVR of both the systems and the CCTV was found working. He disconnected the NVRs from the system and police seized those NVRs under panchnama (Exh. 255). The data in the NVRs was seen on the screen of the Court and he admits the same to be correct. Early on the morning on the next date, the seal of the NVRs were opened under panchnama (Exh. 256) for analysis of the data therein. The data was extracted and copied on a pen drive (Exh. 198) which he admits to be correct, in which, the movements of the accused are recorded. He obtained 106 screen shots of the concerned CCTV footage and the transcript was prepared (Exh. 258). He issued the hash value certificate (Exh. 347). On the same day, police handed over the DVR seized under panchnama (Exh. 41) of Satish Sweet Home to reopen the seal thereof. He accordingly analyzed data therein and extracted the relevant CCTV footage in pen drive (Exh. 178). The accused was seen entering into that shop and after some time, going out of the shop. The nine screen shots have been taken from that CCTV footage. The hash value certificate (Exh.

348) and the hard disk (Exh. 349) were handed over to police and they were seized and sealed under panchnama (Exh. 42).

**96.** Then, he went to Rajgad Jewellers with police team and police seized NVR under panchnama (Exh. 289) and that NVR was kept in sealed cover and the NVR is at Exh. 260. He issued the certificate under Section 63(4)(c) of BSA regarding authenticity of the data seized and analyzed by him and he states that the original data was not tampered with and its integrity was not compromised.

**97.** The prosecution sought permission for leading evidence of the witnesses Raghunath Shinde (PW-42), Ramdas Babar (PW-43), Nana Madne (PW-44), Rahul Kolhe (PW-45) and Mangesh Bhagat (PW-46) for leading their evidence on affidavit, as they were the photographers who snapped the photographs at different times during investigation and they want to depose pertaining to issuance of 63(4)(c) certificates issued by them. The permission was granted and they filed the affidavits accordingly (Exh.230, 232, 234, 246 and 248 respectively) They were also cross examined on behalf of the accused. The panchnamas have been recorded in e-saksh app with the help of them. Raghunath Shinde had snapped 52 photographs (Exh. 231) and issued the certificate under Section 63(4)(c) of BSA (Exh. 203). Ramdas Babar had video-graphed the process of drawing panchnama in e-saksh app and issued the certificate under Section 63(4)(c) of BSA (Exh. 233). Nana Madne had also video-graphed the process of drawing panchnama and recording e-saksh of the witnesses on e-saksh app and he issued 11 certificates under Section 63(4)(c) of BSA (Exh. 235 to 245). Rahul Kolhe had video-graphed the process of

recording FIR in e-saksh app and issued certificate under Section 63(4)(c) of BSA (Exh. 247). Mangesh Bhagat had video-graphed the process of recording disclosure statement of the accused at Wadgaon Maval police station under in e-saksh app and issued 2 certificates under Section 63(4) (c) of BSA have been issued by him (Exh. 249 and 250).

**D. Forensic Evidence :-**

98. Insofar as forensic evidence is concerned, all five Forensic Experts working in RFSL, Pune have worked in coordination with each other. They had different role in sample analysis and DNA profiling, dependent on the analysis of each other. Dr. Sham Khairkar (P.W.- 33, Exh. 141) was the Chemical Analyzer and he examined and analyzed the viscera of the victim and recorded his opinion thereon and issued the viscera report (Exh. 102). The water bottle and gathi shev found on the spot were received from Biology Department for analysis and he analyzed the same and he did not find any poisonous substance therein. He issued the report (Exh. 101) to that effect.

99. Anil Patil (PW 34,Exh. 144) was the Chemical Analyzer and he received 18 articles in sealed condition for analysis. He analyzed 4 articles of the accused and issued his report (Exh.94). He analyzed and 12 articles of the victim and issued his report (Exh.95). He analyzed leggins gagged into the mouth of the victim and he found 2 blood stains and 3 semen on it and 3 saliva stains on it. The blood stains and semen were sent for DNA analysis. He had obtained photographs of leggins and he produced those photographs before the Court. He also analyzed the sample of soil particles stuck with the hand of the victim and send it for

DNA analysis. His report regarding this article is at Exh.97. He received sample of foreign hairs recovered from the leggings of the victim and he referred the same for DNA analysis. His report regarding that article is at Exh.98. He also received 3 articles i.e. scalp hair, finger nail and blood soaked gauze of the victim. He analyzed those articles and sent finger nails for DNA analysis. His report regarding that article is at Exh.99. He also received 6 articles pertaining to the accused and he analyzed the same and articles No.4, 5 and 6 were sent for DNA analysis. His report is at Exh.100. All his reports were referred in DNA report Exh.104 prepared by Smt. Varsha Deshmukh (PW-35).

**100.** Smt. Varsha Deshmukh (PW-35), the Chemical Analyzer has carried the DNA profiling of the blood sample of the accused with victim's piece of sternum. She received total 28 exhibits from other departments in RFSL, Pune for DNA profiling. After obtaining profiles, they were compared and DNA reports Exh.103 to 112 were prepared. She found control DNA profile in blood sample of the accused (Exh.105). Out of 12 articles of the victim received from Biology Department, she found DNA profile in Exh.1 to 8, 10 and 12 (Exh.106) and found mixed DNA in one exhibit pertaining the victim (Exh.107). In 6 exhibits pertaining to the clothes of the victim and accused and other articles collected from the scene of the crime, she found DNA profile in all those articles (Exh.108). On 2 exhibits pertaining to the cloths of the victim, there was one semen stain and one blood mixed semen stain on that exhibit and she found DNA profile in both the exhibits (Exh.109). Nothing was found in one exhibit i.e. onion peel stuck with the body of the victim (Exh.110). The DNA profile was found in foreign hair recovered from the leggings of victim

Article 'F' (Exh.111). The DNA profile was found in three articles pertaining the accused i.e. hairs from his chest, pubic hairs and hand nails (Exh.112).

**101.** She further deposed that the detailed analysis report Exh.103 was prepared and the report Exh.104 was forming its part. The report Exh. 103 pertains to the victim and she found control DNA profile of the victim therein from Exh. 1 (piece of sternum bone of the victim). There were smears on both hands of the victim and their DNA was matched with the accused. (DNAP/1014/2026). She found mixed DNA profile of the victim and the accused from the exhibits of nail clipping of the victim. She also found mixed profile of the victim and the deceased and semen stains on the cutting of the leggings removed from the mouth of the victim. The DNA of foreign hair was matched with the victim. All these interpretation have been recorded in the report Exh. 103. The collective interpretations as mentioned in report Exh.104 are as follows-

<u>Exhibits</u>	<u>Interpretation</u>
105 (ML Case No. DNAP-1014/2026)	The profile was matched with Exh. 10 and 12 in DNAP 1019/2026 (Exh. 106) and DNAP 1037/2026 (Exh. 108), DNAP 1041/2026 (Exh. 112).
106 (ML Case No. DNAP-1019/2026)	The profile was matched with DNA of victim i.e. in DNAP 1013/2026 (Exh. 103).
107 (ML Case No. DNAP-1020/2026)	The profile was mix matched with DNA of victim and the accused i.e. in DNAP 1013/2026 (Exh. 103) and DNAP 1014/2026 (Exh. 105)
108	The profile was matched with Exh. 4, 5, 6,

(ML Case No. DNAP-1037/2026)	8, 11 of the DNA of accused are matched i.e. in DNAP 1014/2026 (Exh. 105), Exh. 15 matched with DNA profile of 1013/2026 (Exh. 103) DNA of victim. (The soil seized from the place of incident was with blood stains of the victim.)
109 (ML Case No. DNAP-1038/2026)	The profile was mix matched with DNA of victim and the accused i.e. in DNAP 1013/2026 (Exh. 103) and DNAP 1014/2026 (Exh. 105) (This is article 'F' cloth gagged in the mouth of the victim.)
110 (ML Case No. DNAP-1039/2026)	No DNA found.
111 (ML Case No. DNAP-1040/2026)	The profile was of the victim was matched with DNA of victim i.e. in DNAP 1013/2026 (Exh. 103).
112 (ML Case No. DNAP-1041/2026)	The profile was matched with DNA of accused i.e. in DNAP 1014/2026 (Exh. 105)

**102.** Pallavi Marathe (PW-36, Exh.163) was the Scientific Officer and the memory card containing CCTV footage was referred to her for the purpose of hash value calculations, tampering and editing detection. Her opinion was sought as to whether the person appearing in video and photograph is the same person in the CCTV footage stored in DVR sent for analysis. The extracted CCTV footage in a pen drive and 4 reference photographs of the accused were forwarded for the said purpose. After analysis she recorded her finding in her report Exh.173 as follows-

**“The video analysis and subsequent frame by frame visual analysis, revealed that the male person present in questioned CCTV footage in Annexure pen drive marked as Ex-1 (AVP-176/2026) found to be similar with the reference still photographs in exhibits marked as Ex-2/3 and Ex-**

2/4 (AVP-176/2026) (said to be Bhimrao Prabhakar Kamble) and with reference images, audio, video recordings found in Ex-1 (AVP-173/2026) and the details are as given below screen shots. The front and left images profiles were matched”.

103. She recorded her opinion as regard control samples in her report (Exh.173) as follows-

“The image and video analysis, metadata analysis and subsequent frame by frame visual analysis of questioned audio video recordings and images in exhibit memory card marked as Ex-1(AVP-173/2026) revealed that the audio video recordings in Ex-1 (AVP-173/2026) were found to be continuous in nature from start frame to end frame and images were found to be original.”

104. Her findings on video analysis in her report (Exh.179) were as follows-

“The video analysis and subsequent frame by frame visual analysis, revealed that the male person present in questioned CCTV footage in Exhibit pendrive marked as Ex-1 (Exh. 178) found to be similar with the reference still photographs is exhibit marked as Ex-2/1, Ex-2/2, Ex-2/3 and Ex-2/4 (said to be Bhimrao Prabhakar Kamble) the details were given in the screen shots of the photographs contained thereunder”.

105. Three pen drives containing CCTV footages were referred her for forensic video analysis for identification of the accused and her opinion as to whether there is any tempering with them. After analysis, she prepared report (Exh.183) as follows-

“The video analysis and subsequent frame by frame visual analysis, revealed that the male person present in questioned CCTV footage named‘Camera\_02\_jama\_Majid\_20260501155000\_20260501160000\_465693.mp4’ in exhibit pendrive marked as Ex-3 found to be similar with the reference still photographs in exhibit marked as Ex-2/1, Ex-2/3 and Ex-2/4 (said to be Bhimrao Prabhakar Kamble). The video analysis, metadata analysis and subsequent frame by frame visual analysis of questioned

**CCTV footages in Exhibit pendrives marked as Ex-1 to Ex-3 revealed that the CCTV footages in Ex-1 to Ex-3 were found to be continuous in nature from start frame to end frame”.**

**106.** Thus, in 3 Pen drives sent for analysis (Exh. 184, 185 and 186) the person appearing in those CCTV footages was the accused Bhimrao Kamble. She recorded similar opinion as regards the memory card and CD of the CCTV footage procured during investigation in her report (Exh.191 & 197).

**107.** Vishal Pandhare (PW-37, Exh.200) was the Scientific Officer who extracted the relevant CCTV footage from the hard disk at Exh. 201 and the DVR is at Exh 202. The I.O. had also issued 4 reference photographs of the accused in separate envelop. He copied the relevant CCTV footage in 128 GB pen drive of Sandisk company. He referred the pen drive to Tape Authentication and Speaker Identification Division (TASI Division) and submitted his detailed examination report Exh. 203. He made forensic image (clone) using the authenticated software and case related CCTV footage and all the data stored in the hard disk was extracted from the hard disk and copied to another hard disk of Toshiba company (Exh. 204).

**108.** Swapnali Waghmare (PW-, Exh.262) was the Asst. Chemical Analyzer and on request by police, she along with her forensic team visited the place of incident on 02/05/2026. She deposed that they carefully inspected the place of incident, so as to find any incriminating material. They found two blood samples on the spot, one water bottle, gathi shev was spread on the ground and there were blood stains on the

earth. They took samples of the blood stains, blood stained soil and soil without blood stains, water bottle and gathi shev. All the aforesaid articles and samples were sealed on the spot. She personally snapped the 26 photographs during that process carried at the spot in her tablet and made 5 copies of each of 26 photographs total 130 in numbers. (Exh. 264/1 to 130).

**109.** All these expert witnesses have stated that the entire material was in sealed condition and the seals were intact. They observed integrity of the said material during analysis and returned those articles to the IO in sealed condition and those seals were removed before the Court during their examination. They have issued the certificates under Sec.163(4) (c) of the BSA. The originality of the material has been tested by them and they were found to be original.

**V. Panch Witnesses:**

**110.** The evidence of Mohseen Shaikh (PW-6, Exh.32) is already referred, who was the CCTV operator and panch witness on six panchnamas, as referred in his evidence. Vidya Mhatre (P.W.-1, Exh. 16) was the panch witness on inquest panchnama, Pravin Beldare (P.W.-8, Exh. 45) was the panch witness on arrest panchnama of the accused, Viraj Pawar (P.W.-11, Exh. 52) was the panch witness on discovery and recovery panchnama. This panchnama was virtually drawn whereby, the belongings of the accused were discovered which were kept behind the door of one of the rooms in the premises of Shriram temple, as per the instructions given by the accused, sitting at Wadgaon Maval police station. The panch witnesses were kept present at both the places and the accused

was video connected from the premises of Shriram temple. The disclosure statement (Exh. 53) and consequent recovery (Article G/1 to 17) was made by the virtual panchnama. Rajaram Kumbhar (P.W.- 12, Exh. 54) was the panch witness who was present along with another panch Ingulkar at the premises of Shriram temple while drawing the said recovery panchnama. The said recovery was proved in his evidence by way of recovery panchnama (Exh. 55).

**111.** Avinash Gamare (P.W.13, Exh. 56) was the photographer impaneled on the panel of Forensic Department. He has video-graphed the process of inquest panchnama of the dead body of the victim. He also obtained the photographs in his camera and printouts of those photographs were taken. He issued certificate under Section 63(4)(c) of BSA (Exh. 58) and his photography and video-graphy report (Exh. 59). He also issued the hash value certificate (Exh. 60). He copied the video-graphy on a pendrive and handed over to the I.O. along with the photographs (Exh. 22).

**112.** Sonali Kolaskar (P.W. 38, Exh. 210) was a peon in Tahasil office who had acted as a panch witness of the panchnama of recording gait identification of the accused which was conducted at Wadgaon Maval police station on 06/05/2026. The process of that panchnama was video-graphed by Raghunath Shinde (P.W. 42, Exh. 230) and he snapped the photographs. The said panchnama is proved in her evidence and marked Exh. 211. The pen drive of the process of drawing that panchnama was produced and played before the Court (Exh. 192). The memory card in which the original recording was saved was also produced and verified

and that is marked Exh. 212.

**113.** Satish Kashid (P.W. 39, Exh. 213) was the panch witness on T.I. parade of the accused conducted in Yerwada Central Prison on 20/05/2026. Raviraj Maind was the another panch and the TI parade was conducted by Naib Tahasildar Arun Kadam. He has narrated the entire process of T.I. parade and he has stated that three children Mohammad Aga, Ashan Ansari and Rudra Salunke identified the accused during the said TI parade. The separate memorandums of TI parade were prepared by the Naib Tahasildar in his own handwriting and the said memorandum of TI parade are at Exh. 214 part I to IV.

**114.** Avdhoot Gujar (P.W. 40, Exh. 215) was the Forest Guard who acted as a panch witness along with Jotiram Shelke to seize DVR of the CCTV installed at the house of Yogesh Jangam on 03/05/2026. That DVR was seized with the help of Cyber expert Nachiket Dandekar. He has deposed about the entire process carried out by the Cyber expert for extracting the data and seizure of the said DVR which is recorded in the panchnama (Exh. 217). The extracted data in the pen drive (Exh. 218) was played before the Court and he identified the same. On next day i.e. on 04/05/2026, he along with another panch Jotiram Shelke acted as the panch witness for reopening panchnama of the said DVR for carrying out analysis by the Cyber expert Nachiket Dandekar. The DVR was handed over to him and he carried out the analysis. Accordingly, the panchnama (Exh. 219) was drawn.

**115.** On 05/05/2026, he was again called along with another

panch Jotiram Shelke to prepare a transcript of CCTV footage through Cyber expert Pranav Palange. They visited Grampanchyat Nasarapur, inspected the CCTV installed at the Grampanchyat, obtained relevant CCTV footages on the pen drive and thereafter, they went to Rajgad Jewelers and the Cyber expert checked the CCTV footage and extracted the relevant CCTV footage in a pen drive. Then, they proceeded to Jama Masjid where the CCTV was installed. The Cyber expert checked the CCTV footage and copied the relevant CCTV footage on a pen drive. The screen shots of the relevant CCTV footages were saved. Accordingly, the transcript and seizure panchnama of all those CCTV footages was drawn (Exh. 220). He has further deposed that the Cyber expert obtained the hash values of these three pen drives in which relevant CCTV footages were extracted. They were seized and sealed in their presence. The CCTV footage stored in the pen drive was played before the Court and that pen drive was marked Exh. 221. By following the same process, the pen drive of the CCTV footage at Rajgad Jewellers (Exh. 222) and that of Jama Masjid (Exh. 223) were proved in his evidence.

**116.** On 06/05/2026, he along with Jotiram Shelke was called to Rajgad police station at 3.00 a.m. at night and the accused made disclosure statement that on 01/05/2026, he was sitting on the step of Shriram temple at Nasarapur and one small girl was playing nearby. He called that girl to him, gave gathi shev to her and lured her to come with him and he took her and done his *work* there and he will show that place. Accordingly, the memorandum (Exh. 224) was prepared between 3.18 a.m. to 3.23 a.m. Thereafter, the accused led the panch witnesses and police staff to Shriram temple at Nasarapur and shown the step on which

he was sitting and the place where the girl was playing. He thereafter, shown the way by which he took that girl with him. He took them to cow shed by the same road as appearing in the CCTV footage and there was tin sheet shed by the side of that cow shed. He took them inside the tin sheet shed and shown the place where he done *work* with that girl. That place was inspected and the panchnama was accordingly drawn. While returning, the accused shown the Satish Sweets Home and told that he had purchased gathi shev from that shop.

**117.** Bhagyesh Gudli (P.W. 47, Exh. 251) was the panch witness along with another panch Sharad Karanjkar on the transcript panchnama of the CCTV footage analyzed by the Cyber expert Nachiket Dandekar by using five pen drives on 06/05/2026. The transcript report is at Exh. 253 and the panchnama is at Exh. 254. Those pen drives were in sealed condition when they were produced for preparing transcript. Those pen drives were played before the Court.

**118.** On 09/05/2026, he was again called as a panch witness to Rajgad police station and Rupesh Ovhal was the another panch. Two NVRs were produced by Akshay Sapkale from Grampanchayat Nasarapur were seized and sealed in their presence under panchnama (Exh. 255). Those NVRs were sent to R.F.S.L. Pune for analysis and they were returned after the analysis in sealed condition and that seal was broken before the Court and he identified those NVRs and the data therein (Exh. 255/1 and 2). During the intervening night of 09/06/2026 and 10/06/2026 at about 2.00 a.m. those NVRs were opened before him by removing the seal and Rupesh Ovhal was the another panch. The Cyber

expert Pranav Palange was present there. The NVRs were handed over to Pranav Palange for analysis and reopen panchnama (Exh. 256) was accordingly drawn.

**119.** On 14/05/2026, he was again called to Rajgad police station and Santosh Sanas was another panch. The Cyber expert Pranav Palange produced five pen drives and out of them, one was of EVM company having 128 GB storage and remaining four were of Sandisk company having 256 GB storage. Those pen drives were seized and sealed in his presence under panchnama (Exh. 257). The CCTV transcript report was prepared (Exh. 258). On 10/05/2026, he was again called as a panch witness to Rajgad police station and Rupesh Ovhal was another panch. One Ganesh Pawar produced the NVR of the CCTV system installed at Rajgad Jewellers and that NVR was seized and sealed in his presence under panchnama (Exh. 259). That NVR was received from R.F.S.L. Pune in sealed condition. That seal was removed before the Court and the data was played on the screen which he identified to be the same. NVR is therefore marked Exh. 206.

**120.** Atul Nirmal (P.W. 20, Exh. 75) was the panch witness along with another panch Rupesh Ovhal present at Nasarapur on 08/05/2026 and the stones pelted by the children on the tin sheet shed, in which the incident took place were seized in his presence. The said panchnama was proved in his evidence and marked Exh. 76.

**121.** Rupesh Harpude (P.W. 21, Exh. 77) was the panch witness present at Nasarapur along with another panch Imran Mulani on

02/05/2026. They visited the place of incident along with police and the spot panchnama was drawn at about 2.00 p.m. on 02/05/2026 (Exh. 79). They inspected that premises and noted the articles found therein and took measurement of the tin sheet shed which was 30 x 15 feet. Yogesh Jangam shown that place to them where the dead body was found lying. There was gathi shev lying there and one gunny bag and banner were also lying there and there were blood stains on both on gunny bag and on that banner. One plastic water bottle was also lying there. The forensic team had already reached there and that team seized eight different articles such as water bottle, banner, gunny bag, gathi shev, blood stained soil and soil without blood stains, the saffron blanket and blue blanket lying on the cot. The seized articles (Article N/1 to 8) were sealed on the spot. Yogesh Jangam then took them to his house and shown the CCTV camera installed at his house. The sketch of that place was prepared and accordingly the spot panchnama (Exh. 80) and the sketch (Exh. 81) were completed in his presence.

**F. Witnesses relating to investigation :-**

122. Mangesh Kumbhar (P.W. 41, Exh. 225) was the police constable attached to Rajgad police station, who responded the police helpline call 112 and immediately reached to Nasarapur village along with PHC Adwal. The witness Omkar Gayawal met with them on the way and he shown the photograph in which two persons were riding on the motorcycle (which was shared to him by the witness Samiksha Gayawal) and told them that those persons have kidnapped the girl. They proceeded to the place and there was crowd gathered there. In the meantime it was found that the persons riding on the motorcycle were actually carrying

bread loafs and they have not kidnapped the girl.

**123.** Mohseen Shaikh verified the CCTV footage. The accused was seen proceeding with the victim from the public water tank and going towards cow shed of Sandeep Gayawal. He was traced out and brought at that place. Police asked him as to where the girl appearing in CCTV footage is but he could not give satisfactory answers. Sandeep Gayawal told police that the accused has confessed before him that he has killed the girl. Rush of people started increasing there and therefore, they informed about those facts to Sr. Police Officer on phone. They were instructed to bring the accused to the police station.

**124.** When they were on the way to the police station with the accused, other police staff consisting API Rathod, PSI Patil, PHC Kolhe, PC Shinde, PC Chavan and PC Bhalerao met them. API Rathod and PSI Patil interrogated the accused in the police vehicle but he could not give satisfactory answers. They were asked to get down from the vehicle and the accused was sent by that vehicle to the police station escorted by PC Shinde and PC Chavan. All other police staff went to Shriram temple at Nasarapur. People were gathered there and they were searching the missing girl nearby Munjoba temple.

**125.** Omkar Gayawal noticed the legs of the missing girl in tin sheet shed by the side of cow shed of Sandeep Gayawal. He came back shouting and he along with brother of Omkar Gayawal namely Atharv entered into that shed and saw that missing girl was lying beneath a gunny bags. PHC Adwal removed the gunny bags and saw that the cloth

had gagged into the mouth of the girl and there was no undergarment on her person and she was lying without movement. He snapped three photographs in his VIVO mobile phone of the place where the girl was lying as it is. The people became aggressive by seeing the girl in that position. He immediately guarded the place of the incident.

**126.** He has deposed about the subsequent events took place during investigation. The photographs snapped by him (Exh. 227) supported by its certificate under Section 63(4)(c) of BSA (Exh. 226) were proved in his evidence. He was having mobile phone in which those photographs were saved and they were as per those saved photographs.

**127.** Tukaram Rathod (P.W.- 49, Exh. 265) was the member of the SIT formed by the Superintendent of Police vide his order (Exh. 266). The main investigating officer was Sr. P.I. Vijaymala Pawar (PW-55). He has stated his role in the investigation as stated by the witness Mangesh Kumbhar. He went to the place of incident and started searching the victim with the persons present there. Omkar Gayawal noticed the victim, he shouted, people rushed to the tin sheet shed and the victim was found lying dead in that shed. He immediately called the local doctor Dr. Rashinkar (PW-7) to examine the victim who declared her dead. He forwarded the dead body to Sassoon hospital for further procedure and the place of incident was guarded by two policemen. He thereafter, went to Rajgad police station and reported that matter to Sr. Police Officer. PI Gholve came to the police station with the written complaint of the mother of the victim (Exh. 24). Based on it, he registered the crime against the accused and filled up the printed FIR (Exh. 25).

**128.** On 03/05/2026, Safal Kuwad produced memory card (Article 'C') of his CCTV system and he seized the same under panchnama (Exh. 36). On 05/05/2026, he went to Nasarapur and seized the CCTV footage at Grampanchayat under panchnama (Exh. 220) and it was copied in a pen drive (Exh. 221) with the help of Cyber expert. He went to Rajgad Jewellers and obtained CCTV footage and it was copied in a pen drive (Exh. 222). He then proceeded to Jama Masjid and obtained CCTV footage in a pen drive (Exh. 223). Five copies each of those pen drives were prepared by the Cyber expert which were seized and sealed on the spot and they were deposited with muddemal clerk under receipt (Exh. 268). That panchnama has been recorded in e-saksh app and he has issued the certificate under Section 63(4)(c) of BSA in that regard (Exh. 269).

**129.** On 07/05/2026, Yogesh Jangam produced DVR (Article 'D') of his CCTV system installed at Satish Sweet Home and that was seized by him under panchnama (Exh. 40). He deposited the same with muddemal clerk under receipt (Exh. 270). On 08/05/2026, he seized four stones pelted by the children on the roof of tin sheet shed under panchnama (Exh. 76). That panchnama has been recorded in e-saksh app and he has issued the certificate under Section 63(4)(c) of BSA in that regard (Exh. 271). The said muddemal was deposited with muddemal clerk under receipt (Exh. 272).

**130.** On 09/05/2026, he procured the sealed envelop of memory card for investigation from muddemal clerk (Exh. 273). He got analyzed the data in that memory card through the Cyber expert Pranav Palange by

removing the seal by drawing reopening panchnama (Exh. 37). The Cyber expert accordingly analyzed the data and handed over that memory card back to him with its five copies in pen drive. He seized that memory card and pen drives under panchnama (Exh. 38) and that was deposited with muddemal clerk vide receipt (Exh. 274). The Cyber expert had also provided the screen shots of the relevant CCTV footage therein. On 10/05/2026, he procured DVR in sealed condition from muddemal clerk (Exh. 275). He removed the seal under reopen panchnama (Exh. 41). That panchnama has been recorded in e-saksh app and he has issued the certificate under Section 63(4)(c) of BSA in that regard (Exh. 276). The DVR was handed over to the Cyber expert Pranav Palange who procured the data in five pen drives and produced the same to him on 11/05/2026 along with him analysis report. He seized the same under panchnama (Exh. 42) and handed over to muddemal clerk vide receipt (Exh. 277). His statement was recorded by the main investigating officer regarding the aforesaid activities carried out by him during the investigation. The spot panchnama has been recorded in e-saksh app and he has issued the certificate under Section 63(4)(c) of BSA in that regard (Exh. 278).

**131.** Madhuri Zendge (P.W.-50, Exh. 281) was one of the co-investigators in SIT. She has drawn the spot panchnama in presence of two panch witnesses and seized eight incriminating materials (Article N/1 to 8) found on the spot with the help of forensic team and drew the spot panchnama (Exh. 80) and drew the sketch of the place of incident (Exh. 81). She snapped the photographs of that scene (Exh. 284/1 to 11) and issued 63(4)(c) of BSA certificate (Exh. 285). Seized muddemal was deposited with muddemal clerk under receipt (Exh. 286).

**132.** On 03/05/2026, she collected the CCTV footage of the CCTV installed at the house of Yogesh Jangam with the help of Cyber expert Nachiket Dandekar, who extracted the relevant CCTV footage in three pen drives under panchnama (Exh. 217) and the pen drive (Exh. 218), DVR (Exh. 201) and hard disk (Exh. 202) were seized. That panchnama has been recorded in e-saksh app and he has issued the certificate under Section 63(4)(c) of BSA in that regard (Exh. 288). He deposited that muddemal with muddemal clerk under receipt (Exh. 289). The said muddemal was again procured for its forensic analysis through Nachiket Dandekar and the seal was removed under reopen panchnama (Exh. 219) and muddemal was handed over to the Cyber expert who carried out the analysis and submitted that muddemal on 06/05/2026. It was then seized and sealed under panchnama. She recorded the statements of three witnesses on 05/05/2026 and made correspondence (Exh. 291 and 292) to procure CCTV footage at Grampanchayat. The said CCTV footage and NVR were seized and sealed under panchnama (Exh. 255/1 and 2). The said muddemal was deposited with muddemal clerk under receipt (Exh. 293). On 10/05/2026, the said muddemal was procured for forensic analysis from muddemal clerk vide letter (Exh. 294) and reopen panchnama (Exh. 256) was drawn to open the seal and the muddemal was handed over to the Cyber expert for analysis. On 14/05/2026, the Cyber expert handed over muddemal after analysis.

**133.** On 09/05/2026 she seized and sealed the CCTV footage of Rajgad Jewellers. She also seized the DVR and NVR produced by the owner as per his request letter (Exh. 295) under panchnama (Exh. 259

and 260) and handed over the same to muddemal clerk under receipt (Exh. 296). She got recorded the statements under Section 183 of BNSS of the witnesses. She has recorded the statements of the witnesses and drew panchnama and that process has been recorded in e-saksh app and she has issued the certificates under Section 63(4)(c) of BSA in that regard (Exh. 300 and 301). She had snapped 20 photographs in her mobile phone of that process and their copies were supplied in a pen drive (Exh. 302). The printed copies of those photographs are at Exh. 303/1 to 20.

**134.** Santosh Gholve (P.W. 52, Exh. 331) was also the SIT member who had recorded the complaint (Exh. 24) of the mother of the victim between the intervening night of 01/05/2026 and 02/05/2026. Recording complaint was started at 11.30 p.m. on 01/05/2026 and was completed at 0.30 a.m. on 02/05/2026.

**135.** Dattajirao Mohite (P.W. 53, Exh. 332) was also the SIT member appointed by the order of Dy.S.P. Shri Mayne and subsequently the Superintendent of Police approved the said team and added two other members to it by order (Exh. 266). He arrested the accused in connection with this crime on 02/05/2026 (Exh. 46). He seized and sealed total 10 articles from the possession of the accused (Article E/1 to 10). That process of arrest was uploaded on e-saksh app. Seized muddemal was deposited with the muddemal clerk under receipt (Exh. 334). His major role was to carry muddemal article and samples to RFSL Pune and to procure the report thereof.

**136.** On 03/05/2026, he took the accused to Government Hospital

at Aundh to carry his medical examination and to obtain the necessary samples. His potency test was also carried out in Sassoon Hospital. On 04/05/2026, he carried the seized articles and samples of the accused in sealed condition to R.F.S.L. Pune for analysis. On 05/05/2026, he recorded the statement of the accused and brought him to Rajgad police station where the main I.O. made inquiry with him and thereafter, he was taken back to Wadgaon Maval police station. On 11/05/2026, he carried three sealed parcels to R.F.S.L. Pune and deposited them for analysis. I.O. had made certain queries to the doctors conducting autopsy and he carried that letter and submitted to the Sassoon Hospital. The inquiry as to belongings of the accused was made with him and accordingly, as earlier stated, his belongings were recovered under virtual panchnama. On 12/05/2026, he went to Sassoon Hospital and collected the answers to the queries made by I.O. as to probable time of death of the victim and whether injuries noted on the person of the victim were sufficient to cause her death. He brought the answers and submitted to the I.O. along with viscera report. On 13/05/2026, he deposited the pen drive with R.F.S.L. Pune and procured the DNA report from that office and submitted it to I.O. and he also procured final cause of death certificate from Sassoon hospital and submitted it to the I.O.

**137.** Vijaymala Pawar (P.W. 55, Exh. 350) was the main investigating officer who has carried the entire investigation of this crime with the help of the members of SIT. She has deposed about the role played by every member of SIT and about her own role played during the investigation. She was present at the time of inquest panchnama and postmortem examination. That process was video-graphed by the

photographer Avinash Gamare. The accused was detained in Local Crime Branch after his arrest and she completed the formalities of issuing notice under Section 48 of BNSS. She instructed the team member Madhuri Zendge and API Mohite to complete their role as stated by them individually. During inquest panchnama and postmortem examination, certain articles and samples were recovered and taken and those articles were seized and sealed. Samples were received in sealed conditions. She obtained sample of footmark of the victim as similar footmark was found on the shirt of the accused for further analysis. The 18 photographs were snapped at that time (Exh. 21/1 to 18). The video-graphed process of inquest panchnama was copied on a pen drive (Exh. 22). The inquest panchnama (Exh. 18) was accordingly drawn. During postmortem examination, the blood sample, sample of stomach wash, skin sample, blood grouping, nails and hairs of the victim were obtained. The process of postmortem examination was also video-graphed. PHC Nimbalkar was deputed to remain present during postmortem examination. API Mohite discharged his duty as stated by him as per her instructions. PHC Nimbalkar brought the samples and deposited with muddemal clerk and submitted the compliance report (Exh. 354).

**138.** On 03/05/2026, she personally visited the place of incident. She has stated all the events regarding the locations of CCTV systems, place of cow shed and tin sheet shed in which the incident had taken place and the situation of the road as stated by the other witnesses. She got sketch of the place of incident prepared by the Land Survey Officer. (Exh. 358). The assessment extract (Exh. 79) of the shed in which the incident took place was also procured from Grampanchayat. She deposed about

extracting CCTV footages and making copies of them through the Cyber experts as per the procedure followed by them and as stated by them in their evidence. The samples of blood, nails and hairs of the accused were also taken for analysis at the time of his medical examination. His medical reports are at Exh. 25/1 and 2, 127, 129, 130, 135 and 136.

**139.** The cause of death certificate and PM notes were collected wherein, it was observed that the death of the deceased was homicidal which was caused due to asphyxia due to combined effect of smothering and gagging associated with blunt trauma to chest. There was evidence of vaginal and anal penetration and possibility of oral penetration in view of sexual assault could not be ruled out. The postmortem report was disclosing 18 injuries found on the person of the victim which were caused by hard and blunt object. She asked the opinion of the doctor about probable time of death of the victim and whether injuries found on the person of victim were possible to cause her death. The opinion was given (Exh. 114 and 116) that the death of the victim might be after 4 to 6 hours after having last meal by the victim. She accordingly made inquiry with the grandmother of the victim who told that victim had consumed poha at 11.30 a.m. on 01/05/2026. The doctor also opined that the injuries No. 4 to 7 in column No. 17 of PM notes were possible due to forceful impact of cloth with use of hands of average adult individual or like manner during scuffle or resistance. The injury No. 15 could have been possible due to an act of penetration by average adult individual, using his penis, finger, object or like manner and as regards injury No. 17 and 18 the doctor opined that those injuries could have been possible due to persistent pressure of cloth using hands of average adult individual,

even after death of the deceased.

**140.** All the investigating papers prepared by her co-investigators were included in the case papers, collected samples and muddemal were sent to R.F.S.L. Pune, the report received were included in the case papers, the CCTV footages were procured with the help of Cyber expert by maintaining the integrity of the original data. Samples and muddemal articles were seized and sealed there. The photographs snapped by different persons at different times are supported by the certificates under Section 63(4)(c) of BSA. The hash values have been obtained at the time of accessing the original data and the has value certificates have been obtained at each and every time when such data was extracted from the storage devices of the CCTV footages. The panchnamas have been drawn by using independent panch witnesses and the entire process has been recorded in e-saksh app.

**141.** She further deposed that she carried out the investigation as to the family background and criminal antecedents of the accused. It was found that two criminal cases were filed against the accused earlier. One was registered in Rajgad police station vide C.R. No. 155/2015 under Section 354 and 506 of IPC r/w Section 8 and 10 of POCSO Act. It was alleged that he called a girl of 17 years of age who was belonging to his family to start the TV in his house and when she entered into the house, he caused her sexual harassment. The copy of that FIR is at Exh. 366. The accused was however acquitted from that case on 03/05/2019 and the certified copy of that judgment is produced (Exh. 367).

**142.** It was also found that the accused had outraged the modesty of an old lady by committing criminal trespass and he abused, assaulted and threatened her. C.R. No. 166/1998 was registered against him regarding that incident. The certified copy of the FIR (Exh. 368) was produced. There was case registered as RCC No. 09/1998 against him but he was acquitted even in that case on 25/08/2011. The certified copy of the judgment is produced on record.

**143.** She also inquired with the villagers about the conduct of the accused and the villagers were making grievance against the accused about his misbehavior not only against the women but also against the animals. She recorded the statement of one of them namely Eknath Kamble (P.W. 31). He stated one incident took place in the year 1996 when he had been to the hill near his house for grazing his cattle and the accused had also come there for grazing his she goats. The accused was found trying to make sexual relations with she goat. He further stated that due to constant misbehavior of the accused with ladies in the village, the villagers have expelled him from the village. She also made inquiry with the family members of the accused and the wife of the accused informed that the accused has been expelled even from the family because of his misbehavior.

**144.** On the basis of the material collected during investigation as referred above in narrow compass, the investigating officer deposes that the strong material was found against the accused and therefore, she has submitted this charge-sheet against him.

**Cross-examination:**

**145.** Shri. Himmatrao Suryawanshi, the learned LADC has cross-examined all the prosecution witnesses. There was no eye witness of the incident and the version of the parents of the victim and her grandmother was based on the information which they received from others. Therefore, there was little scope for their cross-examination. The witness Sandhya Gayawal was confronted on the point of the date of recording her statement by police. She was present at the spot on 01/05/2026 but her statement was recorded by police on 07/05/2026 when she herself went to the police station. It was tried to brand her as a got up witness. According to me, she was not competent to answer as to why her statement was not recorded on 01/05/2026. The IO would be the proper person to answer this question but no such question was asked to the IO.

**146.** The witness Samiksha Gayawal was primarily about the witness Uttam Dimble who was suspect of kidnapping based on CCTV footage but that suspicion found wrong. The cross-examination of this witness was of formal nature Mohasin Shaikh played pivotal role and he faced exhaustive cross-examination conducted by Shri. Jiwani, the learned Chief LADC. As he was CCTV operator, some technical questions were asked. It was tried to be suggested that the memory card seized under Panchanam Exh.36 was manipulated on 03/05/2026 and there was no data available on 09/05/2026 to be extracted and analyzed. Such was the line of cross-examination in respect of all the panchnama drawn in his presence. He admits that he has not stated anything about those panchnamas in his statement under Sec.183 of BNSS. He shows ignorance about obtaining hash value and the procedure followed by the Cyber

Expert and the software used by him. No documentary proof is produced on record to show that he had installed CCTV at the house of Yogesh Jangam and had access of it to his mobile phone. These were some of the relevant admissions given by this witness.

**147.** Other witnesses namely Omkar Gayawal, Yogesh Jangam, Gaurav gangam and Raju Gupta were confronted with reference to the CCTV footage in which the accused had seen with the victim. It was an attempt to show that no such CCTV footage was available and that CCTV footage is manipulated by police and they are deposing falsely under instructions of police. Uttam Dimble was formal witness as was suspect and he had no concern to the incident. The role of Vaishali Zore was limited to recording of complaint of the mother of the victim.

**148.** Insofar as medical evidence is concerned, there was little scope for the cross-examination of the doctors examined in this case. Still some searching cross-examination was conducted of them but nothing has been come out of it to establish that the medical examination carried out by them, the samples taken and opinions expressed suffer with any irregularity which would affect their credibility. Same is the position as regards witnesses for electronic evidence and forensic evidence. It is brought on record that the witnesses for electronic and forensic evidence have used the software which are prone to manipulation. The forensic witnesses say that they have used Govt. approved software whereas electronic witnesses say that they have used the authenticated software. The line of cross-examination of panch witnesses and police witnesses was to suggest that they worked hand in gloves and prepared the record to

falsely implicate the accused as the real culprit was not forthcoming.

**Effect of the cross-examination:**

149. The entire cross-examination of all the witnesses, if carefully gone through, does not suggest anything which would reasonable doubt about their credibility. As to why the witnesses intended to falsely implicate the accused has no answer. The evidence on record shows the natural course of conduct of the witnesses. If the CCTV was to be manipulated to falsely implicate the accused the victim must be alive to show her with the accused. She was already dead and therefore, such possibility was just impossible. The electronic devices and the software may be subject to manipulation as nothing is perfect and permanent in electronic and digital world but it has to be proved that they are actually manipulated. There is no such evidence brought on record. In substance, the cross-examination has not brought anything on record which would doubt the credibility of the prosecution witnesses. Still, the prosecution evidence has to be independently analyzed to find out whether it proves the offences for which the accused has been tried.

**Analysis of the prosecution evidence:**

150. To analyze the evidence led by the prosecution, it is necessary to refer the statement of the accused under Sec.351 of BNSS, presumption under Sec.29 of the POCSO Act, extra-judicial confession and the evidence with reference to last seen theory and circumstantial evidence.

151. Shri. Ajay Misar, the learned SPP besides his detailed oral arguments, has submitted written notes of his arguments (Exh.378).

Giving the chart of the dates and the course of events took place from the date of the offence i.e. 01/01/2026 till filing supplementary chargesheet on 29/05/2026 making reference to the electronic evidence, he submits that the prosecution has proved that the accused was seen together with the victim at 3.12 p.m. and he alone came back at 3.51 p.m. The failure of the accused to give plausible explanation of whereabouts of the victim proves the last seen theory.

**152.** He has given different charts showing the evidence such as different CCTV footages as discussed above coupled with the statements of the witnesses which would clearly prove that the accused was seen at the premises of Shriram temple where the victim was playing, he pelted piece of brick at the children playing there so that they shall disappear and then he took the victim to the tin sheet shed where he was staying, he sexually and physically assaulted her there, killed her and then he return from that shed alone. This is the complete chain of circumstances proved by the prosecution with cogent evidence.

**153.** The learned SPP relies on certain rulings including the judgment in *Sharad Sarada v. State of Maharashtra* as mentioned at the outset. He relied on *Raju Manjhi v. State of Bihar*<sup>2</sup> wherein, it is held that the confession of the accused leading to pursuant recovery is admissible in evidence to the extent of that recovery. This judgment is probably cited in relation to recovery of the belongings made by virtual panchnama when the accused was in police custody. In *Paranjitsingh v. State of Maharashtra*<sup>3</sup> it is held that the witness cannot be doubted merely

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2. (2019) 12 SCC 784

3. 2017 ALL MR (Cri) 1079

because he has acted as a panch in two recoveries. This ruling is cited in relation to the witness Mohaseen Shaikh who has acted as a panch witness for six panchnamas. In *Shahabuddin v. State of Assam*<sup>4</sup>, it is held that a mere variation in time is not a material contradiction. Every variation or immaterial contradiction cannot provide advantage to the accused. This is in respect of the variations in time stated by the witness. In *State of Madhya Pradesh v. Bhura*<sup>5</sup>, it is held that when eye witness is examined at length, it is quite possible for him to make some discrepancies. No true witness can possibly escape from making some discrepant details. Perhaps, an untrue witness who is well tutored can successfully make his testimony totally non-discrepant. This is again on the point of minor discrepancies.

**154.** Shri. Suryawanshi, the learned LADC has also filed his written notes of arguments (Exh.380) besides his precise oral arguments. He has categorically referred the evidence of all the 55 witnesses. His thrust of arguments was on the point that there is no eye witness of the alleged incident and the case is based on last seen theory and circumstantial evidence. There is no complete chain of circumstances pointing involvement of the accused in alleged crime. The electronic evidence is prone to manipulation and if such manipulated evidence is collected and sent for forensic analysis, it may yield intended results. Therefore, such evidence shall not be the basis for conviction. There was unexplained delay for lodging FIR. The child witnesses can be easily tutored and their evidence is not worth reliable. Thus, the last seen theory lacks credence and failure to apply the last seen theory judiciously risks creating

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4. (2012) 13 SCC 213

5. (1999) 8 SCC 649

dangerous precedents that could compromise the fairness of further legal proceedings. The provisions of Sec.106 of the Evidence Act are an exception and not a rule meant for circumstances where other evidence is lacking. A cautious approach is imperative to avoid wrongful conviction and to maintain the integrity of the criminal justice system.

155. As regards presumption under Sec.29 of POCSO Act, the learned LADC submits that this presumption does not absolve the prosecution from proving the foundational facts to shift the initial burden of proof on the accused. No such foundational facts are established and therefore, such presumption is not attracted against the accused. The presence of the accused cannot be presumed merely on the basis of electronic evidence. The versions of the witnesses of the incidents suffer from several discrepancies that create reasonable doubt about the prosecution case. Therefore, the benefit of doubt should be given to the accused.

**Appreciation of rival submissions:**

156. To appreciate the above submissions with reference to the evidence on record, the reference to the statement of the accused under Sec.351 needs consideration. It shall be noted that the statement under Section 351 of BNSS cannot be used as substantive evidence against the accused, as it is not on oath. However, such statement can very well be considered to be corroborative evidence.

**Examination of the accused u/s 351 of BNSS:**

157. The accused has admitted all the circumstances except the

circumstance of his association with the victim. He admitted that he was working as a labourer in the field of Sandeep Gayawal and was maintaining his cow and cleaning the cow shed and was staying in a tin sheet shed by the side of cow shed during that period. He also admitted that one of the cows had delivered a calf on 30/04/2026 and the children from neighbouring houses were coming to see the calf. This corroborates the possibility suggested by the prosecution that the accused might have lured the victim saying her to show the calf in addition to assuring her to give gathi shev.

**158.** He further admits that Sandeep Gayawal, along with another person came to him near Kalubai temple where he was sitting and he took him to the spot where mob had gathered. This corroborates the statement of Sandeep Gayawal and his wife Sandhya Gayawal. He admits his personal search taken by police and recovery of 10 articles including gathi shev. This corroborates the statement of the panch witness Pravin Beldare. He further admits that he was carrying bricks in the premises of Shriram temple on daily wages and therefore, the grandmother of the victim was knowing him. This corroborates the statement of the grandmother of the victim, Sandeep Gayawal and Samiksha Gayawal that proves his presence at Shriram temple on 01/05/2026. He admits the virtual panchnama of recovery of his belongings from one of the room in the premises of Shriram temple. Thus, the recovery of his belongings including gathi shev which was material object has been proved.

**159.** He further admits that on 01/05/2026 at about 7.39 a.m. he had been to the shop of Yogesh Jangam and he had purchased gathi shev

of Rs. 20/- from him. This corroborates the CCTV footage at that shop and the statement of Yogesh Jangam. He further admits that children were playing in the premises the game of hide and seek and he was sitting on the step of the temple at that time and the victim was playing alone there. This corroborates the statements of three children Mohammad Aga, Ashan Ansari and Rudra Salunke and also the statement of Samiksha Gayawal and Omkar Gayawal. He further admitted that those children identified him during the TI parade and thereby he corroborates the TI parade panchnama proved in the evidence of panch witness Satish Kashid. He admits that he had worked in the school of those children. This corroborates the fact stated by those children that they were knowing the accused. He admits that he was working with Sandeep Gayawal, Jadhav mama, Pawa mama, Chotu and Bangali Bhabhi to carry bricks in the premises of Shriram temple since 25/04/2026 and he also admitted that he removed his belongings on 26/04/2026 from the tin sheet shed of Sandeep Gayawal on his asking and put the same in the premises of Shriram temple which was subsequently recovered as per the virtual panchnama. He further admits that on 30/04/2026 the contractor paid him Rs. 100/-. This corroborates the recovery of Rs. 100/- from him during his personal search.

**160.** He admits the important thing that on 01/04/2026 at about 2.30 p.m. there was lunch break and all the labours went to their houses for lunch and after 10 to 20 minutes when they returned back to resume work, the victim was playing there and he was sitting on the step of temple with his belongings. This corroborates the statement of Sandeep Gayawal and corroborates the last scene theory of the prosecution.

**161.** He further admits that when Sandeep Gayawal brought him to the place where mob was gathered, some ladies present there asked him as to where the victim is and he did not give any satisfactory answers and during that period police came, apprehended him and took him away. This statement corroborates the version of almost all the witnesses relating to the incident. He admits his potency test but he does not state anything about the result of that test and he also admits the test of his sexual characteristics and genito-urinary examination conducted by the doctors as mentioned in the medical evidence. He also admits that the samples of his blood, hair and nails were obtained.

**162.** The witness Eknath Kamble was examined on the point of past history of the accused and he admits that this witness was his cousin uncle and he also admits that he has wife, 7 daughters and one son. He also admits that in the year 1996 he was grazing his five she-goats and that witness was grazing his cattle near the hill at village Salwade. He however denies his attempt of sex with she-goat. He further admits that there was case against him of attempted rape one old lady in 1998. This corroborates the criminal case filed against him regarding that incident. He however denies that he attempted to outrage the modesty of the daughter of his cousin brother in his house. However, there is criminal case filed and decided regarding that incident. Therefore, his denial to that fact does not make any difference. He further he admits that he was tried for both the incidents and was ultimately acquitted. He admits his natural gait panchnama and corroborates the statement of the panch witness Sonali Kolaskar. He admits the spot panchnama carried out on

06/05/2026 in the midnight at about 3.00 a.m. and thereby corroborates the statement of the panch witness Avdhoot Gujar. His presence in the mob has been admitted by him and thereby the statement of police witness Mangesh Kumbhar is corroborated.

**163.** It was observed during recording the statement of the accused that he was on denial mode about his association with the victim until the relevant CCTV footage was shown to him. Firstly, the CCTV footage at Satish Sweet Home was shown to him and he admitted that he had visited that shop and purchased the gathi shev in the morning and the person appearing in that CCTV footage is he himself. Thereafter, the CCTV footage in which he was coming with the victim from public water tank and going towards cow shed of Sandeep Jangam was shown to him. He realized that he has been caught in clear picture. At that time, he suddenly shifted from denial mode to defensive mode giving an explanation that the victim had been to cow shed and he came out of the tin sheet shed and saw her there. He asked her whether she wants gathi shev and he gave her gathi shev for eating. He lifted her and took her into the shed but he slipped his legs and collapsed on the ground with the victim and thereby, the victim sustained contusion to her back side of her head and thereby, she started crying. He lifted her and put her on the cot on that shed. She started crying due to injury and he thought that people would beat him assuming that he has caused her injury and therefore, he left her there and he went to the village and thereafter to Kalubai temple and sat on katta. This explanation will be dealt with in detail latter. All these statements fully corroborates the last scene together theory of the prosecution.

**164.** The above explanation of the accused raises several questions. This explanation appears to be the immediate reaction by the accused after realizing that he cannot deny his association with the victim, as is disclosed from CCTV footage. Now, the question arises, what was the reason for lifting the child. There is no injury to the back side of the head of the victim. So, crying of the child by sustaining injury has no probative value. The CCTV footage shows that he was with the victim in that shed for 39 minutes. Is it mean that the child was crying and he was sitting there hearing the cry? If the child was really crying, why the neighbouring persons could not hear the said cry and as to why nobody came to that shed by hearing the cry. There was no possibility that the child who has sustained accidental injury will remain quietly in that shed particularly when, other children were nearby.

**Circumstantial Evidence and Theory of last seen together:**

**165.** There is concrete evidence adduced by the prosecution regarding the sexual assaults on the victim and DNA profile of the accused was matching. That proves the authorship of the accused to those sexual assaults. Thus, the story put up by the accused does not inspire confidence and that can be straight way thrown away. The version of three children was natural and it inspires confidence. The last scream of the child and sound of pelting stones on the shed recorded in CCTV are corroborated by the child witnesses and the witness Raju Gupta. All the witnesses relating to the incident have unanimously stated that the accused and the victim were found together at about 3.12 p.m. on 01/05/2026 proceeding towards the tin sheet shed and at about 3.51 p.m., the accused alone came

from that shed and went towards public water tank. There was time gap of 39 minutes between the aforesaid time slot. Thereafter, the victim is found dead in very unfortunate condition in that shed. Her medical evidence showed that she was brutally raped, sexually assaulted and thereafter she was killed. There was evidence of an attempt of sexual assaults even after her death. The forensic evidence confirms on the basis of DNA profiling that the accused was the person who had committed those sexual assaults on the victim. She was killed by gagging her leggings into the mouth 21 c.m. deep which was sufficient to cause her death. All these circumstances, leave no room for doubt that the accused has committed the said crime.

**Panchsheel Principles:**

166. This takes me to the five principles in the case of Sharad Sarada. The principles and the findings can be recorded as under-

**Principle-(1) The circumstances from which the conclusion of guilt to be drawn should be fully established.**

**Finding:** The circumstances as noted above have been fully established by the prosecution leaving no room of doubt that the accused has sexually assaulted and killed the victim

**Principle-(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,**

**Finding:** The facts established are so consistent that there is no other hypothesis which would create doubt about the prosecution case.

**Principle-(3) The circumstances should be of a conclusive nature and tendency,**

**Finding:** The circumstances are of conclusive nature as they are supported by the medical, electronic and forensic evidence.

**Principle-(4) They should exclude every possible hypothesis except the one to be proved.**

**Finding:** The evidence on record excludes every possible hypothesis except the guilt of the accused.

**Principle-(5) There must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.**

**Finding:** There is continuous chain of circumstances proved by the prosecution which points out that only and only the accused has committed this crime.

**Extra Judicial Confession :-**

**167.** The witness Sandeep Gayawal has stated that after verifying the CCTV footage, he along with Aba Kamble went to search the accused and he found sitting near Kalubai temple and he asked him as to what he did and the accused admitted his guilt saying that he has killed the victim. If this statement is considered together with the statements of other witnesses and time of verifying the CCTV footage and also the time of bringing the accused near Munjoba temple and the time when victim was found dead, it does not appear that the accused might have stated so to the witness Sandeep Gayawal. Firstly because, when Sandeep Gayawal went to search the accused, victim was not traced out. Therefore, the question of asking the accused as to what he did with the victim does not arise. Secondly because, if that had been the fact and the accused would

have brought to the place near Munjoba temple where several villagers had gathered and the accused could have disclosed the fact of killing the victim, he could have faced much serious consequences of it, before he was taken in custody by police. The CCTV footage shows that the victim was not found and all people were in confusion as to where she might be when the accused was brought there and was subsequently taken him to the police station. The evidence shows that after police took the accused to the police station, people continued the search operation of the victim and Sandeep Gayawal had gone to nearby field to search her and at that time, Shirke Kaku came and informed him that the victim is found dead and then he came to know that the victim is sexually assaulted and killed by the accused. Therefore, according to me, under this backdrop, the alleged extra-judicial confession was not factually possible and it is not worth reliable.

**History of the accused:**

**168.** The witness Eknath Kamble (PW-31) was examined on the point of past history of the accused. The accused is the son of his cousin brother and he has wife, 7 daughters and one son. In the year 1996, the accused was grazing his five she-goats and this witness was grazing his cattle near the hill at village Salwade. He witnessed that the accused was attempting sex with a she-goat. He further states that the accused was prosecuted for attempted rape one old lady in 1998 and he was also prosecuted for outraging the modesty of the daughter of his cousin brother in his house. The prosecution has produced on record the copies of the FIR and judgments in both those cases. The accused has been acquitted in both the cases. Thus, the accused carries criminal antecedents, though the

final results may be in his favour.

**Conclusion:**

**169.** Upshot of the above discussion leads me to the irresistible conclusion that the prosecution has proved the guilt of the accused by cogent evidence and there is no reason to doubt the version of any of the witnesses, as it is well supported by electronic, medical and forensic evidence. The involvement of the accused in committing the crime has been conclusively established with electronic evidence in the form of CCTV footages. The sexual and bodily assaults are proved by medical evidence. The authorship of the accused for those assaults has been proved by scientific evidence, such as DNA, semen and other forensic reports. The unbroken chain of circumstances points only and only the accused who has committed that crime.

**170.** Speaking for the individual offences, the accused has kidnapped the victim from lawful guardianship of her grandmother and thereby committed the offence punishable under Sec.137(2) of the BNS. He has committed her murder and thus, he is liable for punishment under Sec. 103(1) of the BNS. He has committed rape on the victim when she was incapable of giving consent and while he was in a position of control and dominance over her and caused grievous injuries to her and committed the rape on her repeatedly. Therefore, he is liable for punishment for the offence under Sec.64(2) of BNS. He has committed rape on the victim knowing that she was below 12 years of age and therefore, he is liable for punishment for the offence under Sec.65(2) of BNS. While committing the rape, the accused has assaulted her and

outraged her modesty. He is therefore, liable for punishment for the offence under Sec.74 of the BNS. The accused has kidnapped the victim in order to commit rape on her. He is therefore, liable for punishment for the offence under Sec.140(1) of the BNS. The accused had concealed the dead body of the victim under gunny bag with a view to cause its disappearance and thereby, he has committed the offence under Sec.238 of the BNS.

**171.** The accused has also committed penetrative sexual assault on a child below 16 years of age and thereby committed the offence under Sec. 3 punishable under Sec. 4 of the POCSO Act. He has committed aggravated penetrative sexual assault on a child below 12 years of age and thereby committed the offence under Sec. 5 punishable under Sec. 6 of the POCSO Act. He has committed sexual assault on the victim and thereby committed the offence under Sec. 7 punishable under Sec. 8 of the POCSO Act. He has committed sexual harassment of the victim and thereby committed the offence under Sec. 11 punishable under Sec. 12 of the POCSO Act. Thus, all the offences are proved against the accused and therefore, I proceed to hear the parties and the accused on the point of sentence as per Sec. 258(2) of the BNSS.

Pune.

Date – 25/06/2026

**(S.R. Salunkhe)**

Spl. Judge, (POCSO Act), Pune.

**Hearing on the point of sentence:**

**172.** Heard Shri. Ajay Misar, the learned Spl. P.P. He, by taking cursory look to the evidence led by the prosecution, submits that this case demonstrate an example of brutality of the crime and inhuman nature of the criminal. He particularly refers the injuries found on the person of the

victim to convince the Court on that point. He further submits that last scene theory and circumstantial evidence are the two key factors in this case and the prosecution has successfully proved the last scene theory as well as unbroken chain of circumstances leading to the conclusion of the guilt of the accused. He further submits that the past history of the accused did not teach him lesson and it is the time where the Court has to consider all the aggravating circumstances and the serious nature of the crime.

**173.** The accused has been acquitted earlier from two cases regarding misbehavior with an old lady and a young girl of 17 years, who was his relative. Therefore, this accused will remain menace to the society. There are no signs of remorse reflected from the appearance of the accused and he is beyond reformation. Therefore, the only appropriate sentence that can be awarded in this case, would be the death sentence. In support of his submissions, the learned SPP has relied upon 12 judgments of the Hon'ble Supreme Court to justify the death sentence in this case.

**174.** Shri. Himmatrao Suryavanshi, the learned LADC confines his arguments regarding the evidence led by the prosecution saying that the last scene theory is based on hearsay information and there is no concrete evidence brought by the prosecution on record. The chain of circumstances is not completed pointing the guilt of the accused. The accused has given explanation in his statement under Section 351 of BNSS and also he is giving the same explanation before the Court, when he was personally heard on the sentence. There is no reason to disbelieve the said explanation. In support of his aforesaid submission, he has relied upon 2

judgments. Lastly, he submits that the accused is an old man of 65 years and he is abandoned by his family and villagers. There appears the reasonable doubt about the crime he has committed. Therefore, the case of this accused would not be covered by the rarest of rare cases which would warrant capital punishment. He therefore, submits that the life imprisonment would be the appropriate sentence considering the facts and circumstances of the case.

**175.** Shri Vipul Dushing, the learned advocate appearing on behalf of the informant adopts the submissions of the learned SPP and he further submits that the past history of this accused, brutality, thrust of lust and inhuman manner to commit the crime debar this accused of his right to remain in society and because of his such behavior, his family has abandoned him. He is having seven daughters, one son and wife as his family members but none of them has come forward to help the accused in this case. His villagers have already expelled him from the village. Thus, the society has denied his existence and the sufferings given by him to a small child of 3 years would suggest that the only punishment for such crime will be the death sentence.

**176.** The accused was heard personally on the point of sentence. He was given sufficient time for thinking. He started giving the explanation as has given during his examination under Section 351 of BNSS. He was asked as to what would be the appropriate sentence of the crime of which he himself was an author. He remained silent on that point.

**Right of the accused to be heard on sentence:**

177. Heard both the sides and the accused on the point of sentence. It shall be noted, at the outset, that our criminal justice system runs with presumption of innocence of the accused and the entire burden of proof of the guilt of the accused rests on the prosecution. The accused has right of silence during the trial but according to me, he need not remain passive during the trial. Every criminal trial has its two end results viz. acquittal or conviction. If the case ends with acquittal, there is nothing more to do by the accused. If the case ends with conviction, that cannot be a matter of surprise to the accused to think of mitigating circumstances. The accused knows both the possibilities from very inception. At the very beginning of the trial, the charges are framed and its contents are explained to the accused, making him known, for which offences he is going to be tried. Thus, he knows not only the offences but the punishment provided therefor. The law expects that the accused shall actively involve in the trial and he shall conduct effective cross-examination of the prosecution witnesses, not only to show his innocence with preponderance of probabilities, but to bring on record the mitigating circumstances for possible conviction and probable sentence, which would be an inevitable result of the conviction.

178. Particularly, when the accused is facing the trial for the offences under POCSO Act, Sec. 29 of the said Act carves out an exception to the general rule of the burden of proof. Sec.29 presumes that the accused is guilty for the offences for which he is charged and it casts burden of proof on the accused to prove his innocence. This is of course subject to proof of foundational facts by the prosecution. Thus, the scope

of cross-examination becomes wider in relation to the offences under POCSO Act, which provides stringent punishment of death including minimum term of sentence to be awarded, in case of conviction.

**179.** Thus, it is expected that the accused shall bring on record the circumstances or material, not only to prove his innocence but also the mitigating circumstances, in case of his probable conviction and sentence. According to me, this is the first stage during the trial that the accused can bring on record the mitigating circumstances through effective cross-examination. The second stage to bring on record the mitigating circumstances is at the stage of recording the statement of the accused under Sec.351 of BNSS. He can state orally or in writing all the circumstances which would have bearing on his innocence or on the mitigating circumstances. He can file an affidavit or produce certain documents in support of his statements. The third stage for doing so, is by way of defence evidence. The accused can bring on record the material to prove not only his innocence, but the material which would have bearing on probable sentence on conviction. The standard of proof may be of preponderance of probabilities but the accused has to bring on record such probabilities.

**180.** The fourth stage to bring on record the mitigating circumstances is the stage where the accused is heard on the point of sentence after conviction as per Sec.258(2) of the BNSS. It is open for the accused to bring on record the mitigating circumstances, by way of filing an affidavit or producing certain documents which would justify lesser punishment. Whether the parties are to be heard on the point of sentence

and appropriate sentence is to be passed forthwith or whether further opportunity is to be given to the accused to show mitigating circumstances by deferring the order of sentence is debatable question. There are divergent opinions as to the scope and duration of such hearing. The Hon'ble Supreme Court has noticed such divergent opinions and has sought to frame guidelines regarding potential mitigating circumstances to be considered while awarding death sentence. In *Suo Motu Writ Petition No.1/2022 decided on 19/09/2022*<sup>6</sup>, the three-Judge Bench of the Hon'ble Supreme Court has examined this issue and the matter is referred to the larger Bench of five judges to issue such guidelines to get the clarity in the matter and to ensure an uniform approach. It was held in Para 24 thus-

“24. In light of the above, there exists a clear conflict of opinions by two sets of three-Judge Bench decisions on the subject. As noticed before, this Court in *Bachan Singh*<sup>7</sup> [] had taken into consideration the fairness afforded to a convict by a separate hearing, as an *important safeguard* to uphold imposition of death sentence in the rarest of rare cases, by relying upon the recommendations of the 48<sup>th</sup> Law Commission Report. It is also a fact that in all cases where imposition of capital punishment is a choice of sentence, aggravating circumstances would always be on record, and would be part of the prosecution's evidence, leading to conviction, whereas the accused can scarcely be expected to place mitigating circumstances on the record, for the reason that the stage for doing so is after conviction. This places the convict at a hopeless disadvantage, tilting the scales heavily against him. This Court is of the opinion that it is necessary to have clarity in the matter to ensure a uniform approach on the question of granting real and

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6. (2023) 19 SCC 695

7. (1980) 2 SCC 684

meaningful opportunity, as opposed to a formal hearing, to the accused/convict, on the issue of sentence”.

**181.** Although, same day sentence is still not barred, this Court shall take care of real and meaningful opportunity to the accused to be heard on the point of sentence. Such care in this case has been taken since inception. The cross-examination of the prosecution witnesses did not yield any mitigating circumstances, probably because of want of required resources to the learned LADC. Knowing this fact, during recording statement of the accused under Sec.351 of BNSS, the opportunity was offered to the accused asking him whether he wants to lead defence evidence and whether he wants to file an affidavit bringing the circumstances which this Court supposed to take its notice. His attention was specifically attracted to Sec.29 of of the POCSO Act and he was asked whether he wants to lead rebuttal evidence against the presumption. The accused did choose to remain silent in that regard. The case was thus, adjourned for hearing the final arguments.

**182.** At that stage, this Court invited the attention of the accused that in case of his conviction, this Court is required to follow the mandate in the judgments of the Apex Court in *Bachan Singh*<sup>8</sup> v. *State of Panjab*, *Madan v. State of UP*,<sup>9</sup> *Machhi Singh v. State of Panjab*<sup>10</sup> and above referred *Suo Motu Writ Petition*, which speak about the consideration of mitigating circumstances while awarding appropriate punishment. This was done, so that, the accused can at least bring any such mitigating circumstances to the notice of this Court during the final arguments.

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8. (1980) 2 SCC 684

9. (2023) 15 SCC 701

10. (1983) 3 SCC 470

**183.** This Court did not solely relied on the accused as to the mitigating circumstances. His mental health examination and potency test were already carried out. This Court called home study report of the accused from the Probation Officer. His conduct report was also called from the jail authority. The mental health status report and potency test report disclose that the accused was physically and mentally fit and sexually competent. His home study report was found to be adverse to him. Nothing adverse was found in his conduct report of the jail authority, but it shall be noted that the accused is kept in isolation in jail for his security reasons. He has remained in jail in that condition for about one and half month excluding the period of his police custody. Therefore, the jail authority could have hardly got any opportunity to observe his natural conduct.

**184.** Now, this is last opportunity to the accused to bring on record the mitigating circumstances as he is convicted. The both parties and the learned advocate for the informant have relied upon bunch of rulings and this Court is bound to consider all those rulings thoroughly. It is observed that the accused need some time for introspection to speak about the quantum of sentence. All these activities are not possible to be completely carried out forthwith. The father of the victim wanted to open his heart before the Court and he was allowed to submit before the Court. He submits that he has lost his beloved daughter which cannot return back. He does not want to take revenge from the accused but he wants that the Court shall pass just sentence which will create deterrence in the society, so that, no other person will dare to commit such type of crime again.

**185.** So, instead of passing sentence forthwith, as an abundant precaution to consider the mitigating circumstances and to go through the ruling cited and to pass just, adequate and proportionate sentence considering the seriousness of the crime, I deem it appropriate not to pass the sentence forthwith but to adjourn the case for passing the sentence on 29/06/2026.

Pune.

**(S.R. Salunkhe)**

Date – 25/06/2026

Spl. Judge (POCSO Act), Pune.

**Governing principles of quantum of sentence:**

**186.** Having heard both the sides on the point of sentence at length on the last date, the issue of mitigating circumstances has remained as it is despite sufficient opportunity. Shri. Ajay Misar, the learned SPP has relied on 12 rulings in support of his submission that this case is fit to attract the capital punishment. The rulings cited are as follows-

- 1) ***Bachan Singh v. State of Panjab***<sup>11</sup>
- 2) ***Machhi Singh v. State of Punjab***<sup>12</sup>
- 3) ***Sushil Murmu v. State of Jharkhand***<sup>13</sup>
- 4) ***State of U.P. v. Satish***<sup>14</sup>
- 5) ***Ashrafi Lal v. State of U.P.***<sup>15</sup>
- 6) ***Muniappan v. State of Tamil Nadu***<sup>16</sup>
- 7) ***Mahesh v. State of M.P.***<sup>17</sup>

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11. (1980) 2 SCC 684

12. (1983) 3 SCC 470

13. AIR 2004 SC 394

14. AIR 2005 SC 1000

15. AIR 1987 SC 1721

16. (2010) 3 SCC (Cri.) 1402

17. AIR 1987 SC 1346

- 8) *Santosh Kumar Bariyar v. State of Maharashtra*<sup>18</sup>
- 9) *Shankar Khade v. State of Maharashtra*<sup>19</sup>
- 10) *Mahesh Shinde v. State of Maharashtra*<sup>20</sup>
- 11) *Dhananjay Chatterji v. State of W.B.*<sup>21</sup>
- 12) *Madan v. State of U.P.*<sup>22</sup>

187. All the above rulings speak about governing principles in awarding death sentence and the common thread is with the judgment in *Bachan Singh*, to which, the detailed reference is to be made little latter. In *Asrafi Lal's* case, there was brutal murder of two nieces by the accused one of 14 years age and another was of 20 years of age. He received the death sentence. In *C. Muniappan's* case, the accused set on fire the bus full of girl students in "Rasta Roko Andolan". He was awarded death sentence. In *Mahesh's* case, there was honour killing of four members of the family and the accused received the death penalty. In *Dhanjoy's* case, there was barbaric rape and cold blooded murder of 18 years girl by security guard. He was awarded death sentence. In *Santhosh Baniyar's*, *Madan's* and *Mahesh Shinde's* cases, the death sentences were commuted to life imprisonments. In *Sushil Murmu's* case, the accused sacrificed a child of 9 years to appease deity to promote his fortunes. His fortune took him to gallows and he was awarded with death punishment. In *Satish's* case, it was observed that the last seen theory comes into play where the time-gap between the point of time when the accused and the deceased were seen alive and when the deceased is found dead is so small that possibility of

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18. (2009) 6 SCC 498

19. (2013) 5 SCC 546

20. 2014 AIR SCW 1562

21. 1994 SCR (1) 37

22. (2023) 15 SCC 701

any person other than the accused being the author of the crime becomes impossible. This was a case of rape and murder of the child of 5/6 years of age. The death sentence awarded by the trial Court was set aside by the High Court but it was restored by the Apex Court.

**188.** There shall be a special reference to the judgment in *Shankar Khade* wherein, the Hon'ble Supreme Court has considered catena of rulings and classified them in groups where death sentence was upheld, where it was commuted to life imprisonment and where death sentence was converted in fixed term without remission. There was murder by strangulation of an 11 year old girl by a man of 52 years of age after repeated rape and sodomisation. He was awarded death sentence. The Hon'ble Supreme Court awarded consecutive life imprisonments instead of death sentence. However, the Hon'ble Supreme Court has laid down the determinative factors in which death sentence was confirmed. They are as follows-

- (1) The cruel, diabolic, brutal, depraved and gruesome nature of the crime.
- (2) The crime results in public abhorrence, shocks the judicial conscience or the conscience of society or the community.
- (3) The reform or rehabilitation of the convict is not likely or that he would be a menace to society.
- (4) The victims were defenceless.
- (5) The crime was either unprovoked or that it was premeditated.

**189.** According to the learned SPP, all the above tests are satisfied in this case. Para-52 is important for the case in hand which reads as under-

“52. Aggravating circumstances as pointed out above, of course, are not exhaustive, so also the mitigating circumstances. In my considered view, the tests that we have to apply, while awarding death sentence are “crime test”, “criminal test” and the “R-R test” and not the “balancing test”. To award death sentence, the “crime test” has to be fully satisfied, that is, 100% and “criminal test” 0%, that is, no mitigating circumstance favouring the accused. If there is any circumstance favouring the accused, like lack of intention to commit the crime, possibility of reformation, young age of the accused, not a menace to the society, no previous track record, etc. the “criminal test” may favour the accused to avoid the capital punishment. Even if both the tests are satisfied, that is, the aggravating circumstances to the fullest extent and no mitigating circumstances favouring the accused, still we have to apply finally the rarest of the rare case test (R-R test). R-R test depends upon the perception of the society that is “society-centric” and not “Judge-centric”, that is, whether the society will approve the awarding of death sentence to certain types of crimes or not. While applying that test, the court has to look into variety of factors like society's abhorrence, extreme indignation and antipathy to certain types of crimes like sexual assault and murder of intellectually challenged minor girls, suffering from physical disability, old and infirm women with those disabilities, etc. Examples are only illustrative and not exhaustive. The courts award death sentence since situation demands so, due to constitutional compulsion, reflected by the will of the people and not the will of the Judges”.

190. Shri. Vipul Dushing, the learned advocate assisting the learned SPP on behalf of the informant has separately relied on two

judgments, one in *Vasant Dupare v. State of Maharashtra*<sup>23</sup> which was in appeal against concurrent sentence of death and another in the same case in review i.e. *Vasant Dupare v. State of Maharashtra*<sup>24</sup>. There was rape and murder of 4 year old girl child by 47 year old man. His death sentence was confirmed upto the Apex Court, even in review.

191. Shri. Himmatrao Suryawanshi, the learned LADC has relied on the judgment in *Sambhubhai Padhiyar v. State of Gujarat*<sup>25</sup>. There were similar set of facts. The male child of 4 years of age was kidnapped, sexually assaulted and murdered by a man of 24 years of age. He was awarded death sentence which was confirmed by the Hon'ble High Court. The Hon'ble Supreme Court maintained the conviction but considering the age of the accused and possibility of his reformation, the sentence of death was converted to 25 years imprisonment without remission. Para 23 of this judgment is important for this case which reads as under-

“23. It is well-settled that if the accused is last seen with the deceased and particularly in a case of this nature when the time-gap between the last seen stage and occurrence of death is so short, the accused must offer a plausible explanation as to how he parted company with the deceased and the explanation offered must be satisfactory. Section 106 of the Evidence Act (now Sec.109 of BSA) mandates that when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. It is on this principle that this Court has repeatedly held that if an accused fails to offer an explanation, he fails to discharge the burden cast upon him under Section 106 and if he fails to offer a reasonable

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23. (2015) 1 SCC 253

24. (2017) 6 SCC 631

25. 2025) 2 SCC 399

explanation that itself provides an additional link in the chain of circumstances”.

**192.** This case supports the prosecution rather than the accused. Here, in the instant case, the accused was admittedly found with the victim between 3.12 p.m. to 3.51. p.m. and he had no reasonable explanation. The explanation given by him is improbable and not worth reliable. Therefore, he has failed to discharge the burden under Sec.106 of the Evidence Act and also under Sec.29 of the POCSO Act. Secondly, the power to award fixed term sentence without remission is vested only with Constitutional Courts and not with the trial Courts. Therefore, this ruling does not come in aid to the accused.

**193.** The learned LADC has also relied on the judgment in *Laxman Prasad v. State of MP*<sup>26</sup> wherein, the accused was sentenced to suffer life imprisonment. The case was based on circumstantial evidence and (i) motive (ii) last seen (iii) recovery of weapon at the instance of the accused were the links of the chain of circumstances. The recovery of weapon was not proved at the instance of the accused. The Hon'ble Supreme Court acquitted the accused on that ground relying on the judgments in *Sharad Sarada v. State of Maharashtra*<sup>27</sup> and *Shailendra Pasvan v. State of Gujarat*<sup>28</sup>. This is not the situation in this case. The chain of circumstances is complete in this case and therefore, this ruling will not come to aid the accused.

**History of rarest of the rare cases doctrine:**

26. (2023) 6 SCC 399

27. (1984) 4 SCC 116

28. AIR 2020 SC 180

194. This propels me to come to the history of evolution of 'rarest of the rare cases' doctrine. In erstwhile Criminal Procedure Code, 1898, the death sentence was the rule and life imprisonment was an exception. By the introduction of Section 354(3) of the Criminal Procedure Code, 1973, the normal sentence is the imprisonment for life and if the death sentence is to be awarded, 'special reasons' will have to be recorded.

195. Now, it is an established norm that the death sentence shall be awarded in rarest of the rare cases. The 'rarest of rare cases' doctrine has been evolved by the Hon'ble Supreme Court in one of its landmark judgments in *Bachan Singh v/s State of Panjab (supra)*, as relied on by the prosecution. That was a case of murder of three persons and grievous injuries to fourth person in one family by a family member, who had undergone the life sentence for another offence. The trial Court convicted the accused and sentenced him to death. The sentence was confirmed by the Hon'ble High Court and the matter reached before the Apex Court in Special Leave Petition in *Bachan Singh v. State of Punjab*<sup>29</sup>.

196. This was a two-judge Bench judgment authored by his Lordship Shri. Justice Kailasam. The validity of imposition of death sentence was challenged in this judgment on the ground that the death sentence puts an end to all fundamental rights guaranteed by clauses (a) to (g) of sub-clause (1) of Article 19 of the Constitution and therefore, the law with regard to capital sentence is unreasonable and not in the interest of the general public. It was further contended that the discretion vested in the judges to impose capital punishment is not based on any standard

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29. (1979) 3 SCC 727

or policy, required by the legislature for imposing capital punishment, in preference to imprisonment for life. It was also contended that the uncontrolled and unguided discretion in the judges to impose capital punishment or imprisonment for life is hit by Article 14 of the Constitution and the provisions of the law do not provide a procedure for trial of factors and circumstances crucial for making the choice between the capital punishment and imprisonment for life and therefore, Article 21 is violated.

197. The Apex Court referred its earlier two judgments, one in *Jagmohan Singh v. State of U.P.*<sup>30</sup> and another in *Rajendra Prasad V. State of U.P.*<sup>31</sup>. These judgments were expressing different opinions on choice between death sentence and life imprisonment. Upholding the view in *Jagmohan's* case and disagreeing with the view in *Rajendra Prasad's* case, it was ultimately held that deprivation of life is constitutionally permissible, if that is done according to procedure established by law and that it cannot be held that capital sentence is *per se* unreasonable or not in the public interest. It was further held that the impossibility of laying down standards is at the very core of the criminal law as administered in India, which invests the judges with a very wide discretion in the matter of fixing the degree of punishment. That discretion in the matter of sentence is liable to be corrected by superior courts. The exercise of judicial discretion on well-recognized principles is, in the final analysis, the safest possible safeguard for the accused. The challenge under Article 14 was also negated on the ground that the facts and circumstances of a crime are widely different and since a decision of the Court, as regards

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30. (1973) 1 SCC 20

31. (1979) 3 SCC 646

punishment, is dependent upon a consideration of all the facts and circumstances, there is hardly any ground for a challenge under Article 14. The Court also negated the plea that the provisions of law do not provide a procedure for trial of factors which are crucial for making the choice between the capital punishment and imprisonment for life. The Court rejected all the challenges against the award of death sentence on the ground of violation of the provisions of the Constitution. It also upheld the investment of wide discretion in the matter of fixing the degree of punishment on the judges, as the exercise of judicial discretion on well-recognized principles is the safest possible safeguard for the accused. However, considering the divergent views in above two judgments, the reference was made for constituting the larger Bench to make authoritative pronouncement regarding constitutional validity of the death sentence.

198. Accordingly, the Constitution Bench of Five Judges was formed and it delivered its judgment in *Bachan Singh V. State of Panjab*<sup>32</sup>. This is the landmark judgment wherein, the ‘rarest of the rare cases’ doctrine has been evolved. This judgment has been authored by His Lordship Shri. Justice Sarkaria, who was one of the members of the two-judge Bench, which made that reference. The Court explained the law as laid down in Jagmohan’s case in para 197 as follows-

“197. In *Jagmohan* [(1973) 1 SCC 20], this Court had held that the sentencing discretion is to be exercised judicially on well recognized principles, after balancing all the aggravating and mitigating circumstances of the crime. By “well recognized principles” the court obviously meant the

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32. (1980) 2 SCC 684

principles crystallized by judicial decisions illustrating as to what were regarded as aggravating or mitigating circumstances in those cases. The legislative changes since *Jagmohan* [(1973) 1 SCC 20] as we have discussed already do not have the effect of abrogating or nullifying those principles. The only effect is that the application of those principles is now to be guided by the paramount beacons of legislative policy discernible from Sections 354(3) and 235(2), namely: (1) The extreme penalty can be inflicted *only* in gravest cases of extreme culpability; (2) In making choice of the sentence, in addition to the circumstances, of the offence, due regard must be paid to the circumstances of the offender, also”.

**199.** The Apex Court then proceeded to explain the meaning of the term ‘aggravating and mitigating circumstances’. Speaking about aggravating circumstances, it was observed that pre-planned, calculated, cold-blooded murder has always been regarded as one of an aggravated kind. In *Jagmohan* [(1973) 1 SCC 20], it was reiterated by this Court that if a murder is “diabolically conceived and cruelly executed”, it would justify the imposition of the death penalty on the murderer.

**200.** The Apex Court doubted the correctness of the conclusions in *Rajendra Prasad’s* case in Para 200 as follows-

“200. It may be noted that this indicator for imposing the death sentence was crystallized in that case after paying due regard to the shift in legislative policy embodied in Section 354(3) of the Code of Criminal Procedure, 1973, although on the date of that decision (February 11, 1974), this provision had not come into force. In *Paras Ram case* [ SLP (Cri) Nos. 698 and 678 of 1953, decided on October 9, 1973] also, to which a reference has been made earlier, it was emphatically stated that a person who in a fit of anti-social piety commits “blood-curdling butchery” of his child, fully deserves to be punished with death. In *Rajendra Prasad* [(1979) 3 SCC 646], however, the majority (of 2:1)

has completely reversed the view that had been taken in *Ediga Anamma* [(1974) 4 SCC 443] regarding the application of Section 354(3) on this point. According to it, after the enactment of Section 354(3), “murder most foul” is not the test. The shocking nature of the crime or the number of murders committed is also not the criterion. It was said that the focus has now completely shifted from the crime to the criminal. “Special reasons” necessary for imposing death penalty “must relate *not* to the crime as such but to the criminal”.

**201.** The Apex Court disagreed with above enunciation and ultimately held in Para 201 as follows-

“201. With great respect, we find ourselves unable to agree to this enunciation. As we read Sections 354(3) and 235(2) and other related provisions of the Code of 1973, it is quite clear to us that for making the choice of punishment or for ascertaining the existence or absence of “special reasons” in that context, the court must pay due regard *both* to the crime and the criminal. What is the relative weight to be given to the aggravating and mitigating factors, depends on the facts and circumstances of the particular case. More often than not, these two aspects are so intertwined that it is difficult to give a separate treatment to each of them. This is so because “style is the man”. In many cases, the extremely cruel or beastly manner of the commission of murder is itself a demonstrated index of the depraved character of the perpetrator. That is why, it is not desirable to consider the circumstances of the crime and the circumstances of the criminal in two separate watertight compartments. In a sense, to kill is to be cruel and therefore all murders are cruel. But such cruelty may vary in its degree of culpability. And it is only when the culpability assumes the proportion of extreme depravity that “special reasons” can legitimately be said to exist”.

202. The Apex Court then specified some of the aggravating and mitigating circumstances. The aggravating circumstances justifying the imposition of death sentence are as follows-

**Aggravating circumstances (crime test):**

- (a) if the murder has been committed after previous planning and involves extreme brutality; or
- (b) if the murder involves exceptional depravity; or
- (c) if the murder is of a member of any of the armed forces of the Union or of a member of any police force or of any public servant and was committed—
  - (i) while such member or public servant was on duty; or
  - (ii) in consequence of anything done or attempted to be done by such member or public servant in the lawful discharge of his duty as such member or public servant whether at the time of murder he was such member or public servant, as the case may be, or had ceased to be such member or public servant; or
- (d) if the murder is of a person who had acted in the lawful discharge of his duty under Section 43 of the Code of Criminal Procedure, 1973, or who had rendered assistance to a Magistrate or a police officer demanding his aid or requiring his assistance under Section 37 and Section 129 of the said Code.

203. It was held that in the exercise of its discretion in the above cases, the Court shall take into account the following mitigating circumstances:

**Mitigating circumstances (criminal test):**

- (1) That the offence was committed under the influence of extreme mental or emotional disturbance.
- (2) The age of the accused. If the accused is young or old, he shall not be sentenced to death.

- (3) The probability that the accused would not commit criminal acts of violence as would constitute a continuing threat to society.
- (4) The probability that the accused can be reformed and rehabilitated. The State shall by evidence prove that the accused does not satisfy the conditions (3) and (4) above.
- (5) That in the facts and circumstances of the case the accused believed that he was morally justified in committing the offence.
- (6) That the accused acted under the duress or domination of another person.
- (7) That the condition of the accused showed that he was mentally defective and that the said defect impaired his capacity to appreciate the criminality of his conduct.”

**204.** One of the members of the Constitution Bench, His Lordship Shri. Justice P.N. Bhagawati delivered separate dissenting judgment *Bachan Singh v. State of Punjab*,<sup>33</sup> upholding the view expressed in *Rajendra Prasad's* case and declaring the death penalty provided under Section 302 of the Penal Code, 1860 read with Section 354 (3) of the Code of Criminal Procedure, 1973 as unconstitutional and void as being violative of Articles 14 and 21.

**205.** All other judgments relied on by the learned SPP follow the above majority view and they have attempted to enlist more aggravating and mitigating circumstances to ease the process for the trial Courts. Suffice, if reference is made to the judgment in *Madan v. State of U.P.*,<sup>34</sup> wherein, the Hon'ble Supreme Court has elaborated 13 aggravating and 7 mitigating circumstances and laid down 5 principles governed by them as follows-

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33. (1982) 3 SCC 24

34. (2023) 15 SCC 701

**Aggravating circumstances (crime test):**

- (1) The offences relating to the commission of heinous crimes like murder, rape, armed dacoity, kidnapping, etc. by the accused with a prior record of conviction for capital felony or offences committed by the person having a substantial history of serious assaults and criminal convictions.
- (2) The offence was committed while the offender was engaged in the commission of another serious offence.
- (3) The offence was committed with the intention to create a fear psychosis in the public at large and was committed in a public place by a weapon or device which clearly could be hazardous to the life of more than one person.
- (4) The offence of murder was committed for ransom or like offences to receive money or monetary benefits.
- (5) Hired killings.
- (6) The offence was committed outrageously for want only while involving inhumane treatment and torture to the victim.
- (7) The offence was committed by a person while in lawful custody.
- (8) The murder or the offence was committed to prevent a person lawfully carrying out his duty like arrest or custody in a place of lawful confinement of himself or another. For instance, murder is of a person who had acted in lawful discharge of his duty under Section 43CrPC.
- (9) When the crime is enormous in proportion like making an attempt of murder of the entire family or members of a particular community.
- (10) When the victim is innocent, helpless or a person relies upon the trust of relationship and social norms, like a child, helpless woman, a daughter or a niece staying with a father/uncle and is inflicted with the crime by such a trusted person.

- (11) When murder is committed for a motive which evidences total depravity and meanness.
- (12) When there is a cold-blooded murder without provocation.
- (13) The crime is committed so brutally that it pricks or shocks not only the judicial conscience but even the conscience of the society.

**Mitigating circumstances (criminal test):**

- (1) The manner and circumstances in and under which the offence was committed, for example, extreme mental or emotional disturbance or extreme provocation in contradistinction to all these situations in normal course.
- (2) The age of the accused is a relevant consideration but not a determinative factor by itself.
- (3) The chances of the accused of not indulging in commission of the crime again and the probability of the accused being reformed and rehabilitated.
- (4) The condition of the accused shows that he was mentally defective and the defect impaired his capacity to appreciate the circumstances of his criminal conduct.
- (5) The circumstances which, in normal course of life, would render such a behaviour possible and could have the effect of giving rise to mental imbalance in that given situation like persistent harassment or, in fact, leading to such a peak of human behaviour that, in the facts and circumstances of the case, the accused believed that he was morally justified in committing the offence.
- (6) Where the court upon proper appreciation of evidence is of the view that the crime was not committed in a preordained manner and that the death resulted in the course of commission of another crime and that there was a possibility of it being construed as consequences to the commission of the primary crime.

- (7) Where it is absolutely unsafe to rely upon the testimony of a sole eyewitness though the prosecution has brought home the guilt of the accused.

**Principles:**

- (1) The court has to apply the test to determine, if it was the “rarest of the rare” case for imposition of a death sentence.
- (2) In the opinion of the court, imposition of any other punishment i.e. life imprisonment would be completely inadequate and would not meet the ends of justice.
- (3) Life imprisonment is the rule and death sentence is an exception.
- (4) The option to impose sentence of imprisonment for life cannot be cautiously exercised having regard to the nature and circumstances of the crime and all relevant considerations.
- (5) The method (planned or otherwise) and the manner (extent of brutality and inhumanity, etc.) in which the crime was committed and the circumstances leading to commission of such heinous crime.”

**Aggravating circumstances in present case (crime test):**

206. The evidence on record in this case would clearly show the following aggravating circumstances in favour of the prosecution-

- (1) The offences relating to the commission of heinous crimes like murder, rape, by the accused with a prior record of offences committed by the accused having a substantial history of serious assaults.
- (2) The offence was committed outrageously for want only while involving inhumane treatment and torture to the victim.
- (3) The victim was innocent child and was helpless.
- (4) Murder of the victim was committed for a motive to satisfy the lust which evidences total depravity and meanness.

- (5) It was a cold-blooded murder without provocation.
- (6) This crime is committed so brutally that it pricks or shocks not only the judicial conscience but even the conscience of the society.

**Mitigating circumstances in present case (criminal test):**

207. There are absolutely no mitigating circumstances brought on record in this case, probably because, they are not available to the accused. The only circumstance which could be posed as the mitigating circumstance is the age of the accused as he is 65 years of age. According to me, this cannot be taken as mitigating circumstance, rather it would be the aggravating circumstance. The thirst for lust of the accused is not extinguished even at such age. Rather, it has reached to very dangerous stage. The injuries noted in P.M. report of the victim would reflect inhuman behaviour of the accused with a child of just 3 years of age. Whatever the accused wanted to do with that child, he did fearlessly, most barbarically and without bothering its consequences. This is probably because, he had past experience that even if he is prosecuted, nothing will happen in Court.

**Shock to judicial conscience and conscience of the society:**

208. In the wake of public outrage after *Nirbhaya* case, the Central Legislature enacted POCSO Act, providing stringent punishments and speedy procedure to deal with crimes against children. The Special Courts are established to render timely justice to the victims of such crimes. However, the experience was somewhat disturbing. Neither the trials proceeded with prescribed speed nor such crimes were found to eradicated. Such incidents of crimes against children continued. Despite

stringent punishments in POCSO Act enacted post-Nirbhaya incident, the collective conscience of the society was shocked by *Kathua* rape case, where an 8 year old child was gang-raped, sexually assaulted and brutally murdered. Then, happened *Unnao* incident where a 17 year old girl was raped by the person having political background. The conscience of the society got shocked by that incident as well. The similar public outrage after both these incidents prompted the Central Legislature to come with the Criminal Law (Amendment) Act, 2018. The amendments were made in POCSO Act, IPC and the Evidence Act providing even more stringent punishments against the crimes against women and children and the punishment of death is provided for certain offences. Now, the punishment more stringent than death punishment can hardly be provided.

**209.** There was similar public outrage after the incident in this case. Thousands of people from all sections of the society came on Mumbai-Bengaluru National Highway with the dead body of the victim child with their demand that the accused shall be handed over to them as they want to do justice with him. They had no trust on the law enforcing agencies. It is a matter of introspection as to why such public perception develops. It can be best explained with the words of the Hon'ble Supreme Court in *Machhi Singh v. State of Punjab*,<sup>35</sup>. Para 32 of the judgment reads as under-

**“32.** The reasons why the community as a whole does not endorse the humanistic approach reflected in “death sentence-in-no-case” doctrine are not far to seek. In the first

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35. (1983) 3 SCC 470

place, the very humanistic edifice is constructed on the foundation of “reverence for life” principle. When a member of the community violates this very principle by killing another member, the society may not feel itself bound by the shackles of this doctrine. Secondly, it has to be realized that every member of the community is able to live with safety without his or her own life being endangered because of the protective arm of the community and on account of the rule of law enforced by it. The very existence of the rule of law and the fear of being brought to book operates as a deterrent for those who have no scruples in killing others, if it suits their ends. Every member of the community owes a debt to the community for this protection. When ingratitude is shown instead of gratitude by “killing” a member of the community which protects the murderer himself from being killed, or when the community feels that for the sake of self-preservation the killer has to be killed, the community may well withdraw the protection by sanctioning the death penalty. But the community will not do so in every case. It may do so “in rarest of rare cases” when its collective conscience is so shocked that it will expect the holders of the judicial power centre to inflict death penalty irrespective of their personal opinion as regards desirability or otherwise of retaining death penalty. The community may entertain such a sentiment when the crime is viewed from the platform of the motive for, or the manner of commission of the crime, or the anti-social or abhorrent nature of the crime, such as for instance”.

**Public perception vis-a-vis statutory duty:**

210. According to me, the public perception should be respected by the Court but it shall not be allowed to over-weigh the Constitutional mandate as enshrined in Article 21 that “*No person shall be deprived of*

*his life or personal liberty except according to a procedure established by law*". Because, the public perception may change by the changing time and situation but the Constitutional mandate remains static. The problem does not lie with the procedure established by law but it lies with the authorities responsible to adhere that procedure.

**211.** Inefficient investigation and inordinate delay in Courts are some of the root causes for such public perception. The investigation of a crime is a quest for finding the fact and not just a process for collection of evidence with reference to allegations. The investigating agency retains powers and independence to reach to the fact and even the Court cannot interfere with it provided, those powers are exercised in accordance with law and prescribed procedure. Unfortunately, the investigating agency sometimes, suffers with internal and external disturbance which would affect the purity of the investigation. Somehow, the chargesheet is laid before the Court and the investigating agency feels relieved from its duty.

**212.** The flooded chargesheets in the Courts pass through procedural obstacles and ultimately they reach to the stage of trial. Till that time, authors of the chargesheets are either transferred or retired. They remain least concerned to the final outcome of the prosecution they have launched. Some witnesses die and some remain alive but they come before the Court when their memory fades. The criminal trial then remains empty formality, if not farce. Everybody becomes happy by the disposal of the case, except the victim of the crime, who stands at the door of the Court thinking as to where he committed mistake.

**213.** As regards criminal Courts, the overloaded truck may have strength to sustain the load but it cannot run a race with four sitter car carrying five passengers therein. The consumers of justice, though have full faith on the systems, get frustrated when they do not get justice in time and as a result, they tend to find alternatives for the same. When the people tend to take law in their hands, that will be the first step towards anarchy.

**214.** This case may be an exception to the growing public perception that the law enforcing authorities do not work to their expectations. The investigating agency came with full strength, coordinated with each other nicely, collected strong material before it disappears and submitted the chargesheet just within 16 days from the date of the offence. That was the period of summer vacation and this Court had already adjourned hearing cases after vacation. Therefore, it was practicable to avail full judicial time of the Court only for this case. The learned SPP and the learned LADC came with their professional commitment to proceed with the trial of this case. Thus, the pre-trial stages were quickly completed and the trial was proceeded and it was concluded within 16 days from its commencement. The post-trial stages were also completed quickly and today, the sentence is being passed within a month of commencement of trial and within two months from the date of the offence. However, this will not happen in each and every case. This case fortunately got an opportunity to travel in four sitter car as a fifth passenger.

**Rarest of the rares test:**

**215.** The Hon'ble Supreme Court in Machhi Singh (*supra*) has given the factors of the crimes, those would fall under category of rarest of the rare cases which would warrant death punishment. They are (1) Manner of commission of murder (2) Motive for commission of murder (3) Anti-social or socially abhorrent nature of the crime. (4) Magnitude of crime. (5) Personality of victim of murder. However, the two questions have to be answered by the Court before opting for death sentence viz. (1) Is there something uncommon about the crime which renders sentence of imprisonment for life inadequate and calls for a death sentence? (2) Are the circumstances of the crime such that there is no alternative but to impose death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offender?

**216.** The evidence discussed above leaves no room of doubt that it was only and only the accused who has committed these heinous offences. Although, the POCSO Act does not define the term 'heinous offence', Sec.2 (33) of the Juvenile Justice (Care and Protection of Children) Act, 2015 defines that "*heinous offences*" includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more". The crime becomes more serious when it is committed with a small child of 3 years.

**217.** As regard manner of commission of the offences, the victim child was just 3 years of age and was in helpless situation, when the offences were committed. The PM report of the victim would show the

manner by which the child was sexually assaulted and killed. Her leggings was gagged 21 c.m. inside the mouth. There was clear evidence of vaginal and anal penetration and even there was possibility of oral penetration. Even the unsuccessful attempt of such penetration is made equally punishable. So, the accused qualifies this test for getting death punishment.

**218.** As regards motive for commission of murder, satisfaction of lust of the accused was the only motive and the victim was killed for that motive. So, the motive of the accused is the sufficient test to qualify him for death sentence. As regards anti-social or socially abhorrent nature of the crime, it needs no explanation. Committing rape, sexually assaulting and finally committing murder of a child of 3 years of age would definitely be anti-social or socially abhorrent nature of the crime. So, this test is also qualified by the accused. As regards magnitude of crime, the PM report of the victim, her last scream recorded in the CCTV camera, photographs of the victim at the spot and at the time of inquest panchnama would be sufficient to show the magnitude of the crime. They demonstrate very barbaric and inhuman conduct of the accused with the victim. So, this test is also qualified by him. As regards personality of victim of murder, the victim was just 3 years of age and was helpless and the accused left no chance for her survival. The victim was innocent child relied reposed trust on the accused and he took disadvantage of the same. So, he qualifies this test also.

**219.** Now, the two questions will have to be answered.

Que.(1) Is there something uncommon about the crime which renders sentence of imprisonment for life inadequate and calls for a death sentence?

Ans: There are so many uncommon factors about this crime which would render sentence of imprisonment for life grossly inadequate and calls for a death sentence. A man of 65 years of age, having 7 married daughters and a major son lures a child of 3 years of age, saying her to show her a calf and give her sweet (gathi shev) and commits aggravated sexual assaults on her by vaginal and anal penetration and also attempts oral sex and kills her due to resistance and even after killing her, he sexually assaults her. Needless to say that the behaviour of the accused was uncommon and punishment of life imprisonment for such crime would be grossly inadequate. Even the punishment of death may not be adequate but it is the greater punishment that can be awarded for such crime.

Que:(2) Are the circumstances of the crime such that there is no alternative but to impose death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offender?

Ans: There are absolutely no mitigating circumstances which would speak in favour of the accused. Despite several opportunities given to the accused, as discussed earlier, the accused could not bring on record any such mitigating circumstance. This leads the conclusion that he had no mitigating circumstances. This Court of its own, tried to bring on record the mitigating circumstances by way of his home study report from the Probation Officer and conduct report from the Jail Authority but nothing useful was found therein. The home study report is against him and even

none of his family member came forward to help him. The conduct report had its limitations as discussed earlier.

**220.** This case also proves the five circumstances justifying the death sentence as given in Shankar Khade's judgment that-

- (1) This crime was cruel, diabolic, brutal, depraved and gruesome nature.
- (2) This crime resulted in public abhorrence and it shocks the judicial conscience and the conscience of society or the community.
- (3) The conduct of the accused disqualifies him to think of his reform or rehabilitation and he has projected himself as a menace to society.
- (4) The victims was a child of 3 years of age and was defenceless.
- (5) The crime was unprovoked and was premeditated.

**Past history of the accused as an aggravating circumstance:**

**221.** The copy of the judgment (Exh.367) shows that the accused was prosecuted for the offences under Sec.354 and 506 of IPC and under Sec.7 r/w 8 of the POCSO Act in Sessions Case No.342/2015. It was alleged that he attempted to ravish a 17 years old girl on the point of a sickle, when he was 53 years of age. He was cousin uncle of that girl. He was acquitted due to discrepancies in the prosecution evidence and the prosecution failed to prove that the girl was minor at the time of the alleged incident. The copy of the judgment (Exh.369) in RCC No.9/1999 shows that the accused was prosecuted for the offences under Sec.452, 354, 323,504,506 r/w 34 of IPC. The allegation against the accused was that he tried to ravish the old lady when he was 36 years of age. He was acquitted due to dependencies in the evidence and delay in lodging FIR. An old man of 84 years of age Eknath Kamble (PW-31) comes before the

Court and states that in 1996, he had witnessed that the accused was trying to commit sex with she-goat. The accused was connected through V.C. during the trial and he was physically produced before the Court whenever required. There was no remorse seen on his face for the acts he has committed with the victim child. All these evidence would show that the accused has passed the stage of reformation and he will remain as menace to the society.

**222.** The brutality of the crime, the manner by which it was committed and inhuman behaviour of the accused with a child of 3 years takes him away from thinking of any alternative to death sentence and the possibility of awarding life imprisonment, which is the normal rule is unquestionably foreclosed in this case. This case will definitely come under the category of 'rarest of the rare cases'.

**223.** This Court has not only to 'consider' but 'perceive with its senses' the 'facts' brought on record. The 'fact' as defined in Sec.2(f) of the BSA is a 'thing' capable of being perceived by the 'senses'. This Court must keep its senses alive to hear the last scream of the child which was loud enough, recorded in audio-video CCTV camera. This Court shall perceive by its senses, 18 injuries inflicted on that small child. This Court shall perceive by its senses, the suffering of the child when she was being sexually assaulted and her leggins was gagged 21 c.m. deep into her mouth. This Court shall perceive by its senses, that CCTV footage wherein, that innocent child walks her small steps happily with the accused reposing trust on him. She was eager to see the beauty of new life (calf). She was however unaware that it is going to cost her own life and it was

her last journey in her life. The Court shall perceive by its senses, the feelings of the parents of the victim standing at the door of the Court waiting for justice to her beloved daughter.

**224.** Before to pass the sentence, I must put on record the striving efforts of police to collect the material, continuously engaging in the investigation day and night, with nice coordination among them. They really deserve appreciation for their efficient investigation of this crime. The witnesses relating to the incident deserve appreciation for their valuable inputs, which set the road map for the investigation and they were standing in line to depose before the Court keeping patience for their turn to come. This is an example of social responsibility towards law enforcing agencies. Every person contributed, regardless of his personal interest, in detecting crime and collecting evidence deserves appreciation. The learned SPP Shri. Misar and the learned LADC Shri. Suryawanshi, were ably assisted by their associates and the Chief LADC Shri. Jiwani himself actively participated in the trial. Because of their collective support, the learned SPP and the learned LADC stood firmly before the Court from 11 a.m. 6 p.m. continuously to examine 55 witnesses in just 16 days and concluded the trial. They have not sought a single adjournment from the date of filing chargesheet till this date. The learned LADC not merely represented the accused but conducted studied cross-examination of the prosecution witnesses leaving no stone un-turned. His cross-examination would reflect the home work done by him. The result was not in his hands but he was found to be honest to his duty. All they deserve special appreciation. The expert witnesses such as Doctors, Cyber Experts, Scientific Experts and Forensic Experts have done the tremendous

job of timely examination, extraction, and analysis of the material collected during investigation and their work remained valuable for this Court to reach to just conclusion. Their work is worth appreciable. The support staff of the Court always remains neglected, though it plays equally important role in administration justice. They worked with me tirelessly, maintaining the record orderly, keeping V.C. and other electronic devices functional all the time and transcribing the interim orders, evidence and this judgment continuously. Above all, the trial of this case demonstrated the collective efforts and a team work.

**225.** Now, the legislature has discharged its function by enacting the laws providing most stringent punishments ever possible. It is time now for the Courts to come out to enforce those punishments stringently, according to seriousness of the crime. The deterrence shall not remain on paper, it shall reflect from the field. The judicial conscience of this Court leads irresistible conclusion that the only punishment the accused can deserve is the death sentence. The accused deserves maximum punishments provided for all the offences which are conclusively proved by the prosecution, including the death sentence for three offences under Sec.103(1) and 65(2) of the BNS and under Sec.6 of the POCSO Act. As the punishment of death sentence cannot be executed consecutively, it is to be awarded concurrently.

**226.** Sec.42 of the POCSO Act, provides alternate punishments and it reads as under-

“42. Alternate punishment.—Where an act or omission constitutes an offence punishable under this Act and also

under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 2 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB, 376E, section 509 of the Indian Penal Code or section 67B of the Information Technology Act, 2000 (21 of 2000)], then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under this Act or under the Indian Penal Code as provides for punishment which is greater in degree”.

**227.** Sec.65(2) of BNS corresponds to Sec.376-AB of IPC and Sec.103(1) of BNS corresponds to Sec.302 of IPC. The offences under Sec.376-AB of IPC and Sec.6 of the POCSO Act are *pari materia* the same as they relate to crime against a child below 12 years of age coupled with death of a child and similar punishment is provided therefor. All other offences provide lesser punishment. This case being POCSO case tried before the Special POCSO Court, the punishment is required to be awarded as per Sec.42, commonly for all the offences. The punishment of death includes punishment for all other offences. Hence the order.

### ORDER

1. The accused **Bhimrao Prabhakar Kamble** is convicted for the offences punishable under Sec. 137(2), 140(1), 74, 64, 65(2), 103(1) and 238 of the Bharatiya Nyaya Sanhita,2023 and under Sec. 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 and is sentenced to death vide Sec.42 of the Protection of Children from Sexual Offences Act, 2012.
2. He be hanged by neck till his death.

3. The reference be made to the Hon'ble High Court, Bombay for confirmation of death sentence as per Sec.407 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and the record and proceeding of the case be submitted immediately.
4. The entire muddemal be preserved till decision in confirmation reference.
5. The accused be detained in jail under jail warrant as per Sec.407(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
6. A copy of this judgment be sent to the DLSA, Pune to award the compensation to the parents of the victim, if already not awarded adequately.
7. A copy of judgment be supplied to the accused free of cost.

Pune.

Date – 29/06/2026

**(S.R. Salunkhe)**

Spl. Judge (POCSO Act), Pune.

**Certificate**

“ I affirm that the contents of the P.D.F. File Judgment are same word for word as per original judgment.

Name of Steno : S.P. Bhagwat (Steno Gr-1)  
Court Name : S. R. Salunkhe,  
Spl. Judge, (POCSO Act), Pune  
Date of Decision : 29/06/2026  
Dictated on : 22/06/2026 to 29/06/2026  
Typed on : 22/06/2026 to 29/06/2026  
Judgment checked and  
signed by P.O. : 29/06/2026  
Judgment uploaded on : 29/06/2026