

(i)

FORM -A

IN THE COURT OF AD-HOC ADDITIONAL DISTRICT AND SESSIONS JUDGE (FIRST TRACK SPECIAL COURT UNDER POCSO ACT) NO.1, CUTTACK.

PRESENT:

**Shri P. K. Das, M.A.,LL.M.,
Ad-hoc Addl. District & Sessions Judge
(FTSC-I), Cuttack.**

Dated the 23rd day of June, 2026.

Spl. GR case No. 141 of 2025

(Arising out of Cantonment P.S. case No.206 dtd 23.08.2025)

(Details of FIR/ Crime and Police Station)

COMPLAINANT /INFORMANT	Father of the Victim (name withheld)
REPRESENTED BY	Sri S.N.Das, Spl. P.P.
ACCUSED	Hafiz Nur Artaj @ Akhtar , aged about 20 years, S/o. Sk. Hanif of vill. Hariharpur, PS, Pala, Dist. Purulia (West Bengal), At present: Patapola,PS. Cantonment, Dist. Cuttack
REPRESENTED BY	Sri K.N.Pattnaik, Advocate & Associates, Cuttack

(ii)

FORM- B

Date of Offence	During the month of August to December,2024
Date of FIR	23.08.2025
Date of Charge sheet	21.10.2025
Date of Framing of Charges	14.11.2025
Date of commencement of evidence	03.12.2025
Date on which the Judgment is reserved	09.06.2026

Date of the Judgment	23.06.2026
Date of the Sentencing Order, if any	23.06.2026

Accused Details

Rank of the accused	A-1
Name of the accused persons	Hafiz Nur Artaj @ Akhtar
Date of arrest	24.08.2025
Date of release on bail	Accused in custody
Offences charged with	U/S. 6 of POCSO Act
Whether acquitted or convicted	Convicted
Sentence imposed	The convict is sentenced to undergo RI for 20 (twenty) years and pay fine of Rs.10,000/- i.d. to undergo RI for one year more for offence u/s 6 of POCSO Act. The pre detention period during investigation and trial shall be set off u/s 468 of BNSS,2023
Period of detention under gone during trial for purpose of Sec.468 of BNSS,2023	24.08.2025 till today

J U D G M E N T

“A child is a glorious gift of mankind, cannot conceive of any kind of carnal desire of man. Once he becomes a victim of such a crime, there is disastrous effect on his mind. The mental agony lasts long. Sorrow and fear haunt forever. There is need to take steps for stopping this kind of child abuse.”

The above named accused is facing his trial in
this case being charged for the offence punishable under

sec.6 of POCSO Act as he allegedly committed the offence of aggravated penetrative sexual assault (unnatural oral sex) with the victim boy (name withheld) aged below 12 years as per the provision of sec.3 read with sec.5(m) of the POCSO Act. (The victim boy shall referred to hereinafter as 'victim' in order to avoid the disclosure of identity as observed in the case of **Nipun Saxena and Anr -vrs- Union of India (2019) 2 SCC 703**, that the mandate of not disclosing identity of the victim of sexual offence U/s.33(7) of POCSO Act ought to be observed in spirit).

2. The hurried episode as unfurled by the prosecution from the FIR marked Ext.P-2 lodged by the parents of the victim boy that the accused was the Urdu Teacher of the victim boy and imparting the Urdu language study in their house. During his tenure as Urdu teacher, the accused repeatedly asked the victim boy to open the pant and suck his private part (penis). The accused was a student from Sultania Madrasa, Buxi Bazar, Cuttack. The details of the incident was disclosed by the victim boy before his parents (the informants).

Knowing this, the matter was reported by the parents of the victim boy at Cantonment PS. Basing on

such written report, IIC, Cantonment PS registered PS Case no. 206 of 2025 U/s 6 of POCSO Act and directed S.I. M.Marandi for investigation.

After criminal law set in to motion, the IO (PW. 9) examined the informants (parents of victim) and other witnesses. Visited the spot and prepared separate spot map marked Ext. P-10. On his requisition, WSI Nibedita Pradhan recorded the statement of victim so also in audio video means. Seized the original Birth Certificate of victim under seizure list marked Ext.P-5 in which the date of birth of victim is mentioned as 26.09.2018. Left the seized certificate in zima of complainant. Sent the victim boy to Court for recording of his statement u/s 183 BNSS and received a copy. Visited the Madrasa Sultania School of Buxibazar and found that the accused was a student of that school. The accused was engaged by his friend Samsari Khan of Madrasa Sultania School as the private tutor of the victim boy. Apprehended the accused from Bhadrak, arrested him and forwarded in custody after medical examination. Seized the biological samples of accused. Seized the wearing apparels of victim boy. Received the medical examination reports of both parties. Sent the

exhibits to SFSL, Rasulgarh. After completion of other formalities, IO placed the Final Form against the present accused U/S 6 of POCSO Act. Hence this case.

3. When the accused was brought before the court necessary copies were furnished to him and after hearing both sides charge U/s.6 of POCSO Act is framed which is read over and explained to him to which he pleaded not guilty and claimed to be tried. Thereafter, the trial commenced.

4. After recording the evidence of the prosecution witnesses, the circumstances appearing against the accused were brought to his notice and explained to him. The replies given by the accused is recorded in his statement . The accused pleaded not guilty. His defence plea is of no knowledge of the case.

5. In the circumstances narrated above, in order to establish the charge against the accused, prosecution is required to prove the following points:

- (a) Whether during August to December, 2024, the age of the victim boy was below 12 years?
- (b) Whether the accused during the month of August to December,2024 being the Urtu Teacher of the victim boy committed aggravated penetrative sexual assault

(forced the victim to suck his private part)
more than once?

6. The prosecution in order to establish the charges leveled against the accused examined as many as 09 prosecution witnesses altogether. They are follows:.

- PW 1 Nibedita Pradhan, SI of police, Recorded statement of victim boy
- PW.2 Tumbanath Mandal, Police constable, Seizure witness
- PW.3 Hemanta Ku. Kanhar, OAPF, Seizure witness
- PW.4 Father of victim (name withheld), Complainant
- PW.5 Mother of victim (name withheld), Complainant
- PW 6 Victim (Name withheld),
- PW.7 Dr. Omprakash Tanty, Medical exam. Of accused,
- PW 8 Grand father of victim, (Name withheld),
- PW.9 Motilal Marandi, I.O.

Apart from the oral evidence stated above, prosecution has also pressed into service, a number of documents which are marked as Ext.P-1 to Ext.P-11.

On the other hand, the accused has not examined any witness nor exhibited any documents in his defence.

EVIDENCE

7. Before proceeding to weigh and analysed the evidence, it would be useful to note in brief the testimonies of the witnesses on record for the purpose of adjudicating the charge made against the accused.

I have given my anxious look to the statement of the victim **P.W.6** a tender boy aged about **7 years**. He in his examination in chief stated that the accused was his Urdu Teacher. The teacher (accused) asked him to suck his penis. So he had sucked his penis. The accused was assaulting him while teaching. So due to fear, he sucked his penis. He told the incident to her mother. Police examined him. He was brought to Court where his statement was recorded marked Ext.P-7.

During cross examination, he stated that the the accused was teaching him from October to November, 2024. He was teaching Urdu and Ampara (first book of Quoran). As he did not remember some parts of the lesson, the accused assaulted him. NO CCTV was installed in his house. The accused was teaching him in their Drawing room by sitting in a Sofa. There was no stool in the room. He was teaching for 30 minutes per day. His parents are staying in the upstairs and not coming at the time of teaching. The members who were staying in the ground floor are passing through the room. There is only one entrance door and one exit door in the room. Generally doors were remained open. He has not told his mother that

the accused asked him to suck his penis. One day, when there was no current in the house, he told the incident to his mother. The teacher did not come to their house after he told the incident to his mother. The accused was coming daily for tuition at about 5 PM and left after 30 minutes. From 1st November, the accused was not coming to their house. His mother never gave him tea. He has not remembered on which date or month, he first told the incident to his mother. His mother seldom talks to the accused. As his father was in office, he was not talking with accused. The teacher was wearing Punjabi, Pajama and cap. The teacher has not opened his pajama before me. He was sucking the penis of accused every day on being asked.

P.W.4, father of the victim boy, in his examination-in-chief stated that on 23.08.2025, night his son (victim) told that this accused who was his Urdu Teacher asked him to suck his penis in the month of December,2024 with a threatening to assault him and punish him. Out of fear, the victim sucked the penis of accused. The victim also disclosed that several times the accused had done this act with him. But due to fear, he did not informed to them. On knowing the incident,

immediately, they went to Cantonment PS and lodged the report at 1.00 AM night which is marked Ext.P-2. Police examined him, seized the pant and shirt of his son under a seizure list marked Ext.P-3. On his production, police also seized the photo copy of the Birth certificate of his son under seizure list marked Ext.P-4. Again, on his production, police seized the original Birth Certificate of my son and prepared seizure list marked Ext.P-5. Police left the seized certificate in his zima under zimanama marked Ext.P-6. The date of birth of his son is 26.09.2018.

During cross examination, he stated that accused is a Moulabi. He came to know the accused in the year 2024 before the month of December when he came to his house as a Urdu tutor of his son. They are staying in the 1st floor consisting of two rooms (one bed room where his father is staying and a drawing room) and 2nd floor of the building. There is separate entrance to the 2nd floor. His wife and father were looking after the study of his son. The accused was teaching his son in the bed room of his father. His son is neither physically nor mentally handicapped. He was examined by the police and his statement was also recorded by the Magistrate. Accused taught his son for

about 4 to 6 months between 4 PM to 5 PM. Learning Urdu is necessary in their religion for which they were interested to teach his son Urdu. His father was not remained present with his son at the time of his Urdu teaching. They never offered any snacks or tea to the accused. He has never asked the accused about the progress of tuition. His father generally looking after the tuition as he was present in the house. Denied the suggestion that accused was teaching his son under the direct supervision of his father whose age is 75years. He first came to know the incident from his son on 23.08.2025.

P.W.5, the mother of the victim boy, testified that on 23.08.2025 her son told that the accused had threatened him to suck his penis and out of fear he had sucked the penis of accused several times during December,2024. Knowing the same, they went to Cantonment PS, where her husband lodged a report. She also signed on the report. Police seized the wearing apparels of his son under seizure list marked Ext.P-3. Police also seized the photo copy of birth certificate of her son under seizure list marked Ext.P-4. Similarly, police seized the original Birth certificate of her son under seizure

list marked Ext.P-5. The date of birth of her son is 26.09.2018. In her presence the statement of her son was recorded before the Magistrate. The said statement is marked Ext.P-6.

During cross examination, she stated that Sometime, she and her father in law used to verify the study of her son. Her son had alleged on some occasions that accused was getting angry upon him during study. This activity of accused was not liked by her. The accused also invariably assaulted her son. Her son was complaining before her about that. She has also asked the accused about his rude attitude but he being a teacher she has to accept this. The accused told that her son is not reading properly. At the time of incident, her son was reading in DAV School, SCB Medical college. Urdu was not a subject in his school syllabus. Her son has no basic fundamental knowledge on Urdu language. She denied that her son was not interested for Urdu tuition and that they have imposed upon him to study Urdu and that in order to get rid of this, they created this false allegation. She has no knowledge whether at the time of incident accused was working in a bakery factory and that he was never a Moulabi.

P.W.8, the grand-father of victim, stated that the accused was the Urdu tutor of his grand son (victim) and was regularly coming to his house for tuition. On 23.8.2025 he came to know from his son that the accused had misbehaved the victim and asked him to suck his penis.

P.W.7, Dr. Om Prakash Tanty who examined the accused on police requisition stated that on 24.08.2025 he examined the accused and found nothing to suggest that he was incapable of performing sexual intercourse. There was no physical finding and injury on his body suggestive of any recent forcible sexual act. However, possibility cannot be ruled out. He collected the biological samples, sealed the same and handed over to the escort. Ext.P-9 is his report.

PW 1, Nibedita Pradhan, the SI of police stated that on 23.08.2025 she recorded the statement of victim and so also in audio video means in Cantonment PS case no. 206 of 2025 and handed over the same to IO.

P.W.2, Tumbanath Mandal, the constable of police stated that on 25.08.2025 he had accompanied the accused for medical examination and on return produced two sealed packets and wearing apparels of the accused

before the IO who seized the same under seizure list marked Ext.P-1.

P.W.3, Hemanta Ku. Kanhar, the OAPF, also stated about seizure of two sealed packets and wearing apparels of accused under Ext.P-1 by the IO.

P.W.9, Motilal Marandi, the IO of the case stated that during course of investigation, he examined the complainant, his wife, his father and other witnesses. Visited the spot and drawn the spot map marked Ext.P-10. On his requisition WSI Nibedita Pradhan recorded the statement of victim boy and also in audio video means and handed over the same to him. Seized the original birth certificate of victim on production by the complainant and prepared seizure list. The date of birth of victim is mentioned in the birth certificate as 26.09.2018. Subsequently, gave the seized certificate in zima of complainant under zimanama. Commanded OAPF Mamita Munda to produce the victim before the Court for recording of his statement u/s 183 BNSS. Received the copy of statement of victim boy in sealed cover. On 24.08.2025 went to Madrasa Sultania School of Buxibazar and found that the accused was a student of that school and also came

to know that the accused used to come there for prayer. One teacher namely Samsari Khan is the friend of the accused who engaged the accused as a private tutor of the victim boy. He disclosed that since last 4 to 5 months the accused had left Cuttack and gone to Bhadrak. On the same day, went to Bhadrak and apprehended the accused and arrested him. Sent the accused for his medical examination and received the biological samples from escort party and prepared seizure list. Forwarded the accused in custody. Seized the wearing apparels of victim boy. Received the medical examination report. On 16.10.2025 sent the medical exhibits to SFSL, Rasulgarh through constable Seshadeb Khandei who on return handed over the receipt of SFSL to him. On completion of investigation, submitted charge sheet against accused Nur Akhtar @ Nur Artaj u/s 6 of POCSO Act.

During cross examination, he stated that as per formal FIR the occurrence took place from 01.11.2024 to 22.08.2025. The date of occurrence has not been mentioned in the FIR. His investigation does not reveal whether the occurrence has actually taken place from 01.11.2024 to 22.08.2025. Not collected any document that

the accused was appointed as tutor of the victim. The accused was working in a Bakery factory and staying in Pension Lane, Buxibazar. He visited the spot on 23.08.2025 at 6.30 AM. All total 5 persons were residing in the family of the victim boy. He has not seized any Urdu study material. He has not seized any money receipt for payment of tuition fees to the accused. ACP who was in-charge of the IIC of the PS has registered the FIR.

8. The learned Counsel appearing for the accused submits that the version of the victim boy in this case neither clear nor cogent, no confidence inspiring. The deposition is inconsistent to his statement recorded u/s 180/183 BNSS,2023. He further stated that neither the FIR nor the statement of witness before the police and before the Magistrate disclosed the date and time of alleged incidents. None of the prosecution witnesses including the victim and his parents have stated the exact date, place and time of alleged sexual assaults on the victim boy. There is no explanation for delay of lodging FIR. Also submitted that the family of the victim has filed this case falsely against the accused due to disputes regarding payment of tuition fee and the rude behaviour of accused to the victim

as the victim was not sincere to his studies . So also argued that the victim has been tutored by his family members due to previous enmity. So he pleaded that in view of the same no implicating reliance could be placed on the version of the victim and other witnesses. Therefore benefit of doubt should be extended in favour of the accused.

9. Relying on the aforesaid evidence of the victim, his statement recorded u/s 183 BNSS,2023 and also the aforesaid corroborating evidence of the witnesses, it is submitted by the learned Spl. P.P. that the prosecution has been able to establish it's case by clear, cogent and convincing evidence that the victim boy was subjected to Penetrative sexual assault by the accused who is none but his tuition teacher. The learned Spl. P.P. place reliance in the decision of the Hon'ble Apex Court reported in 2011 SC (Criminal) 371, State of UP – vers- Chhoteylal where their Lordship have held that testimony of the victim if found to be reliable by itself may be sufficient to convict the culprit and no corroboration of evidence is necessary. He further submitted that there is no earthly reason on part of the victim to implicate the accused who is his Urdu Teacher in a case U/s. 6 POCSO Act. He further argued

that defence has put forth different pleas for false implication of the accused and enmity in the case, which is inconsistent.

AGE OF THE VICTIM

10. Since this Court is in seisin over a case under POCSO Act, the first and foremost duty cast upon it is to ascertain the age of the victim. In the instant case, a 7 years boy was subjected to aggravated penetrative sexual assault. The victim (P.W.6) in his evidence in Court and statement recorded u/s 164 Cr.P.C stated that at the time of incident his age was 7 years. The I.O. P.W.9 during investigation has seized the Original Birth Certificate of victim on production by his father (Complainant) under seizure list marked Ext. P-5. P.W.4 the father of victim and P.w.5, the mother of victim also stated about the seizure of Original Birth certificate of victim by the IO. Prosecution has produced and proved the Original Birth Certificate of victim boy which is marked as Ext.P-8 and the entry made therein reveals the date of birth of victim as 26.09.2018. The evidentiary value of such an entry made in public document is admissible in evidence u/s 35 of the Evidence Act (u/s 29 of BSA,2023). Date of birth came to be

recorded long before when parents of victim boy have not anticipated such an unfortunate incident to happen in future to manipulate the age.

Section 34 of the POCSO Act prescribes procedure in the case of commission of offence by child and determination of age by Special Court :-

- (1) Where any offence under this Act is committed by a child, such child shall be dealt with under the provision of the Juvenile Justice (Care & Protection of Children) Act,2015.
- (2) If any question arises in any proceeding before the Special Court where a person is a child or not, such question shall be determined by the Special Court after satisfying itself about the age of such person and it shall record in writing its reasons for such determination.

Section 94(2) of JJ (C & PC) Act,2015 prescribes presumption and determination of age :- In case, the Committee or the Board has reasonable grounds for doubt regarding whether the person brought before it is a child or not, the Committee or the Board, as the case may be, shall undertake the process of age determination, by seeking evidence by obtaining -

- (I) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;

- (ii) the birth certificate given by a corporation or a municipal authority or a panchayat;
- (iii) and only in the absence of (I) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board.

It is evident from conjoint reading of the above provisions that wherever the dispute with respect to the age of a person arises in the context of her or him being a victim under the POCSO Act, the courts have to take recourse to the steps indicated in Section 94 of the JJ Act. The three documents in order of which the Juvenile Justice Act requires consideration is that the concerned court has to determine the age by considering the following documents :

- (I) the date of birth certificate from the school, or the matriculation or equivalent certificate from the concerned examination Board, if available; and in the absence thereof;
- (ii) the birth certificate given by a corporation or a municipal authority or a panchayat;
- (iii) and only in the absence of (I) and (ii) above, age shall be determined by an ossification test or any other latest medical age determination test conducted on the orders of the Committee or the Board.

As per sec.34 of the POCSO Act and sec. 94 of JJ (CPC) Act the birth certificate is one of the vital document which

proved the age of the victim. From the evidence on record, it is ascertained that the date of birth of the victim is 26.09.2018 as per his Birth Certificate Ext.8. The period of occurrence is within August to December 2024. On the other hand defence during recording of evidence of the victim and his parents not put any question that the victim is not a minor. So, this court is of clear opinion that at the time of occurrence the age of the victim was about 7 years and a child as per Sec.2(d) of POCSO Act.

11. Before adverting into the appreciation of the evidence adduced in this case, especially of the victim to determine the aforesaid, it would be worthwhile to mention here that this court is alive to the fact that the evidence of the victim in a case of sexual assault or harassment cannot be equated with the evidence of an accomplice and relying on sole testimony of the victim, if the same is otherwise found to be credible and trustworthy, a conviction can be very well be recorded in an offence of sexual assault. The Hon'ble Apex Court in the case of ***Rameswar versus State of Rajasthan, dates back in 1951 in the decision, reported in 1952 Crl. L.J.547***, have held that the corroboration to the

version of the victim is not the since-qua-non for conviction in a rape case. To equate a rape victim of an accomplice is to add insult to womanhood (Mukesh-Vrs.- State (NCT of Delhi) 2017 6 SCC-01.

In the case of Mukesh versus State of Chhatishgarh (2014) 10 SCC-317 and State of Himachal Pradesh versus Manga Singh 2018 SCC online SC-2886 it is held that the conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence and if it is implicitly reliable and there is ring of truth on it. This facts have been decided in the case Raja-Vrs.- State of Karnatak (2016) 10 SCC-506: Omprakash Vrs. State of Haryana (2011) 14 SCC 309: Dinesh Jaiswal – Vrs.- State of M.P. (2010)-2 SCC-09.

Similarly in the case **State of Punjab Vrs. Gurmit Singh AIR 1996** it is held that the testimony of the victim in such cases is vital and unless there are compelling reasons which necessitate looking for corroboration of her statement the court should find no difficulty to act on the testimony of the victim of sexual assault alone to convict an accused where her testimony inspires confidence and is found to be reliable. Seeking corroboration of her statement

before relying upon the same as a rule, in such cases amounts to adding insult to her.

In the case of **State of Himachal Pradesh vs Manga Singh (2019) 16 SCC-759** is also noteworthy. It was held that:

“10. The conviction can be sustained on sole testimony of the prosecutrix, it is inspire confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitat the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is not a requirement of law, but a guidance of prudence under the given facts and circumstances. Minor contradictions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix.”

Before proceeding further, however, it is important to also take note of principles qua appreciation of the testimony of child witness. The Hon’ble Apex Court in the case of **State of M.P Vs Balveer Singh (2005) 08 SCC-545** laid down guidelines for appreciation of the evidence of a child witness. There is no bar to cross examination of a child witness, if the said witness has withhold the cross-examination, the prosecution would be

entirely within their rights to seek conviction even solely relying therein.

DISCUSSION

12. Now let me see the argument advanced by the parties. During course of argument, learned Defence Counsel appeared for the accused person contended that there is delay of about eight months in lodging of FIR at PS and this delay has gone unexplained for which the FIR is outcome of afterthought brain of victim and her family members, who wanted to take revenge against the accused person.

In a criminal trial one of the cardinal principles for Court is to look for plausible explanation for the delay in lodging of the report. Delay sometimes afford opportunity to the complainant to make deliberation upon the complaint and to make embellishment or even make fabrication. Delay defeat the chance of the unsoiled and untarnished version of the case to be presented before the court at the earliest instance. That is why if there is delay is either coming before the police or before the Court, the court always view the allegation with suspicion and look for

satisfactory explanation. If no such satisfaction is formed, the delay is treated as fatal to the prosecution (*Dilwar Singh Vrs. State Delhi [2008] 3 SCC [crime] 330*).

In this context, the observation of Hon'ble Supreme Court in the decision considered relevant and the same quoted below for guidance. *Harpalsingh and another Vrs. State of Himachal Pradesh AIR 1981 SC 361*. Similarly, in the case of *State of Himachal Pradesh Vrs. Gian Chand AIR 2001 SC 2075*, it is held that delay in lodging FIR not itself sufficient to discard the prosecution case of rape. Sequence of events soon following the crime and on described by the prosecution witness providing satisfactory explanation for delay. Thus, such delay would not fatal to the prosecution case. In the case involving sexual assault delay in lodging FIR itself not fatal for prosecution case as delay can be done to variety of reasons (*Mangilal Vrs. State of Rajasthan, 2002 Cri LJ. 3687*). Delay of lodging FIR based as ritualistic formula for doubting the prosecution case and discarded the same solely on the ground of delay in lodging FIR. Delay has the effect to putting the court in its guard to search if any explanation has been offered whether it is satisfactory or

not. If the prosecution fails to satisfactorily explained the delay and there is possibility of embellishment in prosecution version on account of such delay would be fatal for the prosecution. Law is well settled that delay in lodging FIR in an offence of sexual assault is normal phenomenon as the FIR is lodging after discussion and consultation among the family members as it is a question of prestige of the family so also the future of the victim. It takes some time to overcome the trauma suffered the agony and anguish to create the balance in mind of the victim and her family members to muster the courage to expose one in a conservative society to acceptance the psychological inner strength to undertake a legal action against the culprit.

Admittedly in our case the incident alleged to have been occurred in the month of August to December 2024 when the accused was engaged as Urdu Teacher of the victim boy. But the FIR was lodged on 23.08.2025. Father of the victim boy PW 4- the complainant in his evidence in Court categorically deposed that on 23.08.2025 night his son (victim) told the incident that was happened in the month of December,2024 and on many occasions.

As the accused had threatened to assault and punish the victim, out of fear, his son (victim) had not informed them. On knowing the incident, he immediately went to PS and reported the matter at 1.00 AM (night). Similarly, PW 5, the mother of victim deposed in Court that her son, the victim boy-PW 6 one day when there was no current in house, told the incident to her.

Delay in filing the FIR for sexual offence may not even properly explained, but if found natural, the accused cannot be given any benefit thereof. At the outset, it is required to be noted that it was the specific and consistent case on behalf of the victim that he narrated the incident to his parents. The FIR has been well proved by the prosecution. I find the explanation to be satisfactory. Therefore, when in such a situation, the delay has taken place in lodging the FIR. The benefit of such delay cannot be given to the accused who as such the tuition teacher of the victim boy. Therefore, the contention of the learned counsel for the accused person that on account of delay in lodging FIR, prosecution case should be viewed with suspicion cannot be accepted.

13. Vehemently submitted by the learned counsel for the accused that there is discrepancies and variance in the evidence of the prosecution witnesses particularly the victim and his parents. The learned counsel for accused person submitted that the victim boy and his parents have deposed different period of alleged occurrence. The victim (PW 6) in his cross examination admitted that accused had never opened his Pajama before him.

The learned Spl.PP urged that contradiction as pointed out by the learned counsel by the defence from the evidence on record would not matter as the same would not reach the very route of the present case while considering the totality of the circumstances. Minor discrepancies on trivial matters as pointed out by the learned counsel for the accused person would not affect the case of prosecution as the same would not offer ground for rejection of the evidence as whole. It is natural that there would be discrepancy and variance in the evidence. But that discrepancy evidence is not major in nature, for which the evidence of the witness is to discarded. In *Subodh Nath and another – vrs – State of Tripura*, AIR 2013 SC 3726, it has been held that discrepancies in testimony of witnesses,

unless material creates doubt about the credibility of witnesses, their evidence cannot be discarded. In the case *Bhagawan Jagannath Markand – vrs – State of Maharashtra*, 2017(2) Criminal Court Cases, it has been observed that discrepancies not touching the case are not enough to reject the evidence as whole.

Thus, the law that emerges on the issue is to the effect that statement of the victim, if found to be worthy of credence reliable, requires no corroboration. The evidence of the witnesses also corroborate the same. The prosecution witnesses are subject to lengthy cross examination, they have remain, persistent in their statement and there was no material contradictions so as to raise any doubt regarding their credibility.

Minor contradiction or insignificant discrepancies in the statement of the victim and prosecution witnesses should not be ground for throwing out otherwise reliable case. Nothing substantial could elicited in cross examination of the witnesses. Evidence of the victim of sexual assault is enough for conviction and it does not require any corroboration unless there are compelling reasons for seeking corroboration. The Court should

examine the broader probabilities of a case and not get swayed by minor contradictions or insignificant discrepancies in the statement of the prosecutrix which are not of fatal nature to throw out or otherwise reliable prosecution case. The testimony of the prosecutrix must be appreciated in the back ground of the entire case and the Court must be alive to its responsibility and be sensitive while dealing with cases involving sexual molestation or sexual assaults (**State of Punjab Vs Gurmit Singh (1996) 02 SCC-384**).

In the case of State of UP vs M.K.Anthory (1985) 01 SCC-505 held that evidence must be assessed as a whole to determine whether it carries the rings of truth. Similarly, in Appabhai vs State of Gujrat 1988 Supp SCC 241, the Court cautioned against placing undue weight on minor contradictions or omissions. Truthful witness may differ in detail due to normal lapses of memory of difference in perception. The essential question is whether the inconsistencies materially compromise the backbone of the prosecution narrative. In conclusion, it may be said that a truthful witness may make honest mistake or omit

immaterial details and such normal variations should not result in wholesale rejection of evidence.

Applying the law laid down by the Apex Court to the facts of the case on hand and as observed herein-above I see no reason to doubt the credibility and / or trustworthiness of the victim. He is found to be reliable and trustworthy. Thus on a conspectus of the analysis of the evidence made herein before this court is of the considered view that the victim's version inspire confidence.

14. Defence all along took the stand that the FIR is the outcome of previous dispute between the father of victim and accused regarding non-payment of tuition fees to the accused and to materialise their evil desire, such false case has been foisted against the accused. The parents of the accused have been suggested by the defence that to avoid the payment of tuition fees to accused, this false case has been foisted. But they have denied such suggestion. To prove the enmity, defence has not produced any evidence. Except the bald statement, the defence has not taken any step to bring any evidence regarding enmity. The heart ending expression of the victim as deposed by him

undoubtedly swept away the aspersion of the victim falsely implicating the accused. I do not find any faulty reason why the parents of the victim foisted this false case against the accused when no previous enmity putting danger to the future of their son. The victim in this case without any animosity against the accused has come forward at a risk of his reputation that he was sexually assaulted by the accused. The defence has failed to bring any conjoint reasons for false implication. The victim has narrated in detail where and how the incidents have taken place. He has been thoroughly and fully cross-examined. The victim's testimony is stated to be of sterling quality having a ring of proof around it, enough to build the accused conviction on it. Enmity can have double impact both in support and against the accused. It may add that animosity is double edged sword and if given undue weight may lead to injustice, in view of the un-controverted testimony of the victim boy. In this instant case, there was no aggravating factor into family dispute which could have been treated as motive for the offence. I am not agreed with the submission put forth by the learned counsel for the accused. So in my

view the argument of the learned counsel for the accused in this score is not tenable in the eye of law.

15. At the outset, it is required to be noted that in the present case, the victim boy has fully supported the case of the prosecution. He has been consistent right from the very beginning. Nothing has been specifically pointed out why the sole testimony of the victim should not be believed. Even after thorough cross examination, he has stood by what he has stated and has fully supported the case of the prosecution. I see no reason to doubt the credibility and/or trustworthiness of the victim boy. The submission on behalf of the accused that no other witnesses have been examined and/or supported the case of the prosecution and conviction on the basis of the sole testimony of the victim can not be held, the aforesaid has no substance.

In State of **Orissa vs Thakara Besra (2002) 9 SCC**

86, Hon'ble Apex Court held that

“the rapist degrades (Sic-destroy) the whole personality of the victim and therefore, the testimony of the prosecutrix must be appreciated in the background of the entire case and in such cases, non-examination even of other witnesses may not be serious infirmity in prosecution case, particularly

where the witnesses had not seen the commission of the offence.”

16. It may also be pertinent to note that having regard to the seriousness of the offence under the POCSO Act, the Legislature has incorporated certain statutory presumptions. Section 29 permits the Special Court to presume, when a person is prosecuted for committing or abetting or attempting to commit any offence under Section 3,5,7 and Section 9 of this Act. The special Court shall presume that such person has committed the offence, unless contrary is proved. Similarly, Section 30 thereof permits the Special Court to presume for any offence under the Act which requires a culpable mental state on the part of the accused, the existence of such mental state. Of course, the accused can take a defence and prove the fact that he had no such mental state with respect to the act charged. It may further be noted that though as per sub-section (2) of Section 30, for the purposes of the said section, a fact is said to be proved only when the Special Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability,

the Explanation to Section 30 clarifies that “culpable mental state” includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

So as per the above provisions a reverse burden of proof lies on the accused to prove that he did not commit any act as alleged and also did not have the necessary mens rea. The stand taken by the accused which was of denial, discrepancies and enmity has not been proved by him by any standard of proof much less the standard of proof by preponderance of probability. Thus, on the conjoint reading of Section 3, 5, 29 and 30, there remains no shadow of doubt in the mind of this Special Court, it believes the existence of a fact beyond reasonable doubt, can raise a presumption under Section 30 as regards the existence of “culpable mental state” on the part of the accused. So to come with a false case against his tuition teacher and to give clear consistent and cogent evidence before the Court is not possible on the part of a minor boy who is the victim of the crime. So, no cogent reason is found to discard the evidence of the victim which appears to be credible, unequivocal and in clear terms. So this Court

is of the considered view and firm opinion that the prosecution has been able to prove its case up to the hilt.

17. After marshaling the evidence of the victim alone and on a thorough and microscopic scrutiny of the same, this Court comes to the irresistible conclusion that the age of the victim boy was around seven years at the time of incident and he was subjected to aggravated penetrative sexual assault by the accused as defined u/s 3 r/w sec.5(1)(m) of POCSO (Amendment) Act of 2019 which is punishable **u/s 6 of POCSO Act** and accused is convicted hereunder in consonance with sec. 258(2) of BNSS,2023.

18. Considering the seriousness of the offence so also the fact that in spite of a new legislation being enacted and subsequent many amendments to curb the menace, the offence does not seem to stop anywhere. In this regard, the court adverted to the subject POCSO Act the vulnerable position of the children in the society. In our society a male child is also in very vulnerable position. There are different modes of their exploitation including sexual assault and / or sexual abuse. In my view exploitation of children in such a manner is a crime against humanity and

the society. Therefore, the children and more particularly male child deserve full protection and need greater care and protection.

Child Sexual abuse are cases of perverse lust for sex where even innocent children are not spared in pursuit of the sexual pleasure. In recent years, reports indicates sexual abuse against children have been on the increase. So regard being had to the above facts, I am not inclined to show any clemency and leniency to the convict by extending any of the beneficial provisions of Probation of Offenders Act to him unless the convict is awarded with any substantive sentence, it will be short in the arm to the other anti social elements and miscreants to get themselves indulged in such kind of crimes making the male child fall pray of their sexual lust. So the convict is to be heard on the question of sentence.

This judgment is computerized to my dictation, corrected by me and pronounced in the open court today this the 23rd day of June, 2026 under my hand and seal of the Court.

Ad-hoc Addl. Dist. & Sessions Judge
(FTSC-I), Cuttack.

HEARING ON THE QUESTION OF SENTENCE.

19. The convict Hafiz Nur Artaj @ Akhtar is produced from jail custody. Heard the convict as well as his learned Counsel so also the learned Spl. P.P. on the question of sentence.

It is urged by the learned Counsel of the convict that convict is a young man of 20 years of age. There is no criminal history to his credit and the only bread earner of his family so also stated that he was in jail custody since 24.08.2025. So a lenient view may be taken against him.

Learned Spl. P.P. per contra urged for award of maximum punishment as prescribed under law as the convict the tuition teacher had committed aggravated penetrative sexual assault on an innocent minor male child of 07 years of age in a most gruesome and barbaric manner. No leniency can be shown to the convict, who has committed the offence which are heinous in nature.

The fundamental purpose of imposition of sentence is based on the principle that the accused must realize that crime committed by him has not only created a

dent in his life but also a concavity in the social fabric. The purpose of just punishment is designed so that the individuals in the society which ultimately constitute the collective do not suffer time and again for such crimes. It serves as a deterrent by awarding a suitable punishment, commensurate with the act of sexual assault, sexual harassment, message must be conveyed to the society at large that if anybody commits any offence under POCSO Act, they shall be punished suitably and no leniency shall be shown to them. Act of sexual assault is increasing day by day in the society and shall be curbed at its threshold otherwise it will result in nipping young life in bud.

A seven years old boy who was supposed to spend time in cheerfulness was dealt with animal passion and his dignity and purity of physical frame was shattered. The plague of the child and the shock suffered by him can be well visualized. The torment on the child has the potentiality to corrode the poise and equanimity of any civilized society. The age old saying “child is a gift of the God” enters into the realm of absurdity. The minor boy with efflux of time would grow with traumatic experience, an unforgettable shame. He shall always be haunted by the

memory replete with heavy crush of disaster constantly echoing the chill air of the part forcing him to state of nightmarish melancholia. He may not be able to assert the honour of a man for no fault him.

In our case the victim boy was a child of seven years. Convict was his Urdu Teacher. It was his duty to protect the victim boy rather than exploiting his innocence and vulnerability. The requirement of education and function of teacher have been dealt with and explained at some length by the Hon'ble Apex Court in the case of Anivash Nagra Vs Navodaya Vidyalaya Samity and others (1997) 02 SCC 134 which reads as follows:-

“It is in this backdrop there of that Indian Society evaluated the teacher as “**Guru Brahma, Guru Bishnu, Guru Deva Maheswar**”. As Brahma, the teacher creates knowledge, learning, wisdom and also creates out of his students equipped with ability and knowledge, discipline and intellectualism to enable them to face their challenges to live. As Bishnu, the teacher is preserver of learning. As Maheswar destroys the ignorance. Obviously, there fore the teacher placed on the pedestal below Parents.”

It is a case here trust has been betrayed and social values are impaired. There is no scope for awarding sentence lesser than the prescribed minimum. Undue sympathy to impose an inadequate sentence would do more

harm to the justice system to undermine the public confidence and such serious threats would denigrate the society's perenniality into peril. Apex Court held that leniency in matters involving sexual offence is not only undesirable but also against public interest. Such type of offences are to be dealt with severely and with iron hands showing leniency in such matters would be really a case of misplaced sympathy. Duty warrants thus a proportionate sentence to be awarded vis-à-vis the nature of the crime and the manner of its commission.

The accused has been found guilty and convicted U/s.6 of POCSO Act.

Having regards to the facts and circumstances of the case , convict **Hafiz Nur Artaj @ Akhtar** is sentenced to undergo **R.I. for 20 (twenty) years** and to pay a fine of **Rs.10,000/-**(Rupees ten Thousand) only **in default** to undergo **R.I.** for further period of **one year** for offence **U/s.6 of POCSO Act.**

The fine amount if realized shall be paid to the victim as per law.

The period of detention during the time of investigation and trial shall be set off as per Section **468 of BNSS,2023** against the substantive sentence.

The convict is apprised of the fact that he has a right to go on appeal against this judgment and order and in this regard, he can also seek the help of District Legal Services Authority, Cuttack.

20. The zimanama and seizure list is to be canceled four months after the expiry of the appeal period if no appeal is preferred. In case of an appeal the same shall be subject to the order of the Appellate Court. No order as to the disposal of material object is made as no material objects in this case has been produced by the prosecution.

Grant fee copy of the Judgment to the convict as per Section 404 of BNSS,2023.

Ad-hoc Addl. Dist. & Sessions Judge
(FTSC-I), Cuttack

Quantum of compensation to be granted to the victim

21. Relying on the decision in the case of *Nipun Saxena –Vrs.- Union of India and others* reported in (2019)2 SCC 703 wherein Hon’ble Supreme Court has been pleased elaborately guide the Courts to provide compensation to the

victim in various cases. Victims are unfortunately the forgotten people in the criminal justice delivering system. No term of months or years imposed on offender can reconcile the agony suffered by the victim but then monetary compensation will at least provide some solace. In view of the age of the victim at the time of occurrence and the nature and gravity of the offences committed and family background of the victim, this Court feel it necessary to award a sum of **Rs.4,00,000/-(Rupees four lakh)** towards compensation as per Sec. 396 of BNSS. If any interim compensation received the victim or his family member is to be adjusted.

A copy of the Judgment be forwarded to the Secretary, DLSA, Cuttack for compliance of the order relating to grant of compensation.

Ad-hoc Addl. Dist. & Sessions Judge
(FTSC-I), Cuttack

LIST OF PROSECUTION / DEFENCE / COURT WITNESSES		
A. Prosecution witnesses		
RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
PW.1	Nibedita Pradhan	Police witness
PW.2	Thumbanath Mandal	Seizure witness
PW 3	Hemant Ku. Kanhar	Seizure witness
PW 4	Father of victim (name withheld)	Complainant
PW 5	Mother of victim (name withheld)	Complainant
PW 6	Victim (Name withheld)	Victim boy
PW 7	Dr. Om Prakash Tandi	Medical witness
PW 8	Grand father of victim	Other witness
PW 9	Motilal Marandi	I.O

B. Defence witness, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
	None	

C. Court witnesses, if any:

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESSES)
NIL		
LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS		
A. PROSECUTION EXHIBITS		
Sl. No.	Exhibit Number	Description
1	Ext. P-1/PW2	Seizure list
2	Ext. P-1/1-PW.2	Sign of PW.2
3	Ext. P-1/2-PW.3	Sign of PW 3
4	Ext. P-2-PW 4	F.I.R
5	Ext. P-2/1-PW.4	Sign of PW 4
6	Ext. P-3-PW.4	Seizure list
7	Ext. P-3/1-PW.4	Sign of PW 4
8	Ext. P-4-PW.4	Seizure list
9	Ext. P-4/1-PW.4	Sign of PW 4
10	Ext. P-5-PW.5	Seizure list
11	Ext. P-5/1-PW.5	Sign of PW 5
12	Ext. P-6-P.W.6	Zimanama
13	Ext. P-6/1-PW.6	Sign of PW 6
14	Ext. P-2/2-PW.6	Sign of PW.6
15	Ext.P-3/2-P.W.5	Sign of PW 5
16	Ext.P-4/2-PW.5	Signature of P.W.5
17	Ext.P-5/2-P.W.5	Sign of PW 5
18	Ext.P-7-PW 5	Statement of victim
19	Ext.P-7/1-PW 5	Sign of PW 5
20	Ext.P-7/2-PW.6	Sign of PW 6

21	Ext.P-8	Birth Certificate of victim
22	Ext.P-9-PW.7	Medical exam. Report of accused
23	Ext.P-9/1-PW.7	Sign of PW 7
24	Ext.P-2/3- PW.9	Signature & endorsement of IIC
25	Ext.P-10-PW.9	Spot map
26	Ext.P-10/1-PW.9	Sign of PW 9
27	Ext.P-5/3-PW 9	Sign of PW 9
28	Ext.P-6/2-PW.9	Sign of PW 9
29	Ext.P-1/3-PW.9	Sign of PW 9
30	Ext.P-11-PW.9	Receipt of SFSL

B. Defence Exhibits, if any:

Sl. No.	Exhibit Number	Description
	Nil	Nil

C. Court Exhibits, if any:

Sl. No.	Exhibit Number	Description
	Nil	

D. Material Objects if any:

Sl. No.	Exhibit Number	Description
	NIL	

**Ad-hoc Addl. Dist. & Sessions Judge
(FTSC-I), Cuttack**