



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK AGARWAL

&

HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH

ON THE 25th OF JUNE, 2026

CRIMINAL APPEAL No. 1920 of 2026

MUNNA RAM

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

.....
Appearance:

Shri Ravindra Pratap Singh, Advocate for appellant.

Shri Abhishek Singh, Government Advocate for State.
.....

JUDGMENT

.....
DICTATED IN OPEN COURT

Per. Justice Vivek Agarwal

Heard on I.A.No.6788/2026, which is first application for suspension of sentence and grant of bail to the appellant.

2 Learned counsel for the appellant prays for withdrawal of the aforesaid application.

3 I.A.No.6788/2026 is accordingly dismissed as withdrawn.

4 With the consent of learned counsel for the parties, this appeal is finally heard.

5 This appeal is filed being aggrieved of judgment dated 14.10.2025 passed by learned Special Judge (POCSO Act) Singrauli in Special Case No.23/2024 convicting the appellant Munnaram for the offence under



Sections 363, 366, 376(2)(n) of the Indian Penal Code, 1860 (for short "I.P.C") and Section 5(1)/6 of the Protection of Children From Sexual Offences Act, 2012 (for short "POCSO Act") and sentencing him under Section 366 of the I.P.C and Section 5(1)/6 of the POCSO Act to undergo rigorous imprisonment for seven years and twenty years with fine of Rs.500/- and Rs.500/- and in default of payment of fine to undergo additional rigorous imprisonment for one year and one year respectively with a further direction to run all the jail sentences concurrently.

6 Learned counsel for the appellant submits that the present case is one of consensual relations between two adults. Referring to the testimony of the prosecutrix (PW-1), it is submitted that, in Paragraph No.6, the prosecutrix admits that she herself had called the appellant. She further states that at the time of her admission to Class-I, she was seven years old. She also admits that since her father had beaten her, she had left her house on her own. Referring to Exhibit P/3, namely, her statement recorded under Section 164 of the Cr.P.C, the prosecutrix (PW-1) states that she had gone to Banaras alongwith the appellant because her father had beaten her. She was already acquainted with the appellant, who had given her a ring, and thereafter, at Banaras, they performed a marriage ceremony. Subsequently, they established a marital relationship and lived as husband and wife. It is submitted that the mere positivity of the DNA report, arising from a relationship between two consenting adults, is not by itself sufficient to record a finding of conviction. Referring to the testimonies of the mother of the prosecutrix (PW-2), the father of the prosecutrix (PW-3), Dr. Sarita Shah



(PW-5), and the School Teacher (PW-8), it is further submitted that the prosecution has failed to prove the age of the prosecutrix. Therefore, it is contended that the appellant deserves to be acquitted and that the finding of conviction is liable to be set aside.

7 Learned Government Advocate for the State, on the other hand, supports the impugned judgment and submits that the DNA report is positive. The Class-X marksheet of the prosecutrix (PW-1) is available on record as Exhibit P/5C in which her date of birth is recorded as 27.12.2007. The incident took place in April 2024 and thus, she was approximately sixteen and a half years old at the time of the incident. It is, therefore, submitted that the prosecutrix was a minor on the date of the incident. Hence, prayer is made for dismissal of the appeal filed by the appellant and for affirmation of the impugned judgment.

8 We have heard learned counsel for the parties and gone through the record.

9 The prosecutrix (PW-1) states that she was admitted to Class-I at the age of seven years.

10 Contrary to this, the father of prosecutrix (PW-3) states that he had admitted the prosecutrix (PW-1) to L.K.G. on 31.07.2014. He further states that he has studied up to Class XII. However, no admission record, marksheet, or other document pertaining to L.K.G. or Class I has been brought on record.

11 The father of the prosecutrix (PW-3) also admits that his marriage was solemnized nineteen years prior to the date of the incident and that his first



child was born one year after the marriage.

12 The prosecutrix (PW-1) states that she took admission in Class-1 at the age of seven years.

13 The mother of the prosecutrix (PW-2) states that her marriage was performed twenty years prior to the date of the incident. She has three kids. The prosecutrix (PW-1) is the eldest. The prosecutrix (PW-1) was born two years after her marriage.

14 Contrary to his wife (PW-2), PW-3 states that his marriage was performed nineteen years prior to the date of incident and after one year of his marriage, his first child was born i.e. the prosecutrix (PW-1). Thus, on account of the testimony of mother of prosecutrix (PW-2) and father of prosecutrix (PW-3), it is evident that the prosecutrix (PW-1) was adult at the time of the incident.

15 The School Teacher (PW-8) states that the prosecutrix (PW-1) was admitted to Class II on 31.07.2014. Her date of birth is recorded as 27.12.2007. This witness admits that no record pertaining to Class-I or any earlier studies was produced either by the parents or by the prosecutrix (PW-1). Therefore, the admission record of Class-II does not conclusively establish that the date of birth recorded therein was correctly entered.

16 Contrary to the aforesaid, there is other evidence on record, namely, the testimony of the father of the prosecutrix (PW-3), who states that he had admitted his daughter to L.K.G in the year 2014. The Class-X marksheet is of the year 2023. Ordinarily, a student undergoes approximately twelve years of formal schooling before appearing in the Class-X examination. If the



prosecutrix (PW-1) was admitted to L.K.G. only in the year 2014, it would be difficult to reconcile as to how she could have completed the requisite period of formal education and appeared in the Class-X examination in the year 2023. Thus, the evidence on record gives rise to a serious doubt regarding the correctness of the date of birth of the prosecutrix (PW-1).

17 Dr.Sarita Shah (PW-5) admits that the secondary sexual characteristics of the prosecutrix (PW-1) were fully developed. No external or internal injuries were found on her person. Further, no definite opinion was expressed regarding any violation of the prosecutrix's privacy.

18 Thus, when the statement of the prosecutrix (PW-1) recorded under Section 164 of the Cr.P.C and her testimony before the Court are read conjointly then it becomes evident that the prosecutrix (PW-1) was a consenting party. Further, her date of birth has not been satisfactorily proved by the prosecution. The prosecution has failed to produce the first school admission register or any document relating to the earliest school entry of the prosecutrix. It is also not the case of the prosecution that the prosecutrix (PW-1) was admitted directly to Class-II without having passed the preceding classes.

19 The mother of the prosecutrix (PW-2) admits that her marriage was solemnized twenty years prior to the date of the incident and that the prosecutrix (PW-1) was born two years thereafter. On the other hand, the father of the prosecutrix (PW-3) states that his marriage was solemnized nineteen years prior to the date of the incident and that the prosecutrix (PW-1) was born one year thereafter.



20 Thus, when the aforesaid evidence is examined from this perspective then it is apparent that the prosecutrix (PW-1) was a consenting adult and, therefore, mere positivity of the DNA report, by itself, is not sufficient to sustain the conviction of the appellant.

2 1 In view of the aforesaid, the impugned judgment dated 14.10.2025 having been passed by learned Special Judge (POCSO Act) Singrauli in Special Case No.23/2024 without appreciating the total facts & circumstances of the case deserves to and is hereby set aside.

22 Accordingly, this appeal is allowed.

23 The appellant is in jail. He be set at liberty forthwith.

24 Let record of learned Trial Court be sent back forthwith.

(VIVEK AGARWAL)
JUDGE

(AVANINDRA KUMAR SINGH)
JUDGE

amit