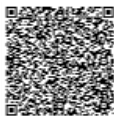


MRC-6-2023 &
CRA-D-1055-2023

2026:PHHC:092023-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

MRC-6-2023 &
CRA-D-1055-2023

State of Haryana ...Appellant

Versus

Anand Singh ...Respondent

JUDGMENT RESERVED ON	JUDGMENT PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
01.07.2026	08.07.2026	FULL PRONOUNCED	09.07.2026

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present: Mr. Yuvraj Shandilya, A.A.G., Haryana.
Mr. Rahul Mohan, Addl. A.G., Haryana,
Mr. Karan Sharma, D.A.G., Haryana.
Mr. Shiva Khurmi, D.A.G., Haryana.

Ms. Vibha Dhiman, Legal Aid Counsel for the appellant-convict.

Mr. Prateek Gupta, Advocate (Amicus Curiae).

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
144	24.05.2021	Mundkati, Palwal, Haryana	346 ¹ IPC [363 ² , 366-A ³ , 376 ⁴ , 365 ⁵ , 302 ⁶ , 201 ⁷ IPC, 6 ⁸ of POCSO Act and 3(1) (w)(i) of SC/ST Act- All Added later on]

¹ §346. Wrongful confinement in secret.
² §363. Punishment for kidnapping.
³ §366A. Procuration of minor girl.
⁴ §376. Punishment for rape.
⁵ §365. Kidnapping or abducting with intent secretly and wrongfully to confine person.
⁶ §302. Punishment for murder.
⁷ §201. Causing disappearance of evidence of offence, or giving false information to screen offender.
⁸ §6. Punishment for aggravated penetrative sexual assault.

CIS number before the Sessions Court	SC-333-2021
Date of Decision	28.07.2023
Date of order on the quantum of sentence	29.07.2023

Name of the accused/convict	Anand Singh
Conviction under Sections	302, 363, 201 IPC and 6 of POCSO Act

Sentence imposed upon the convict –Anand Singh			
Section	Sentence of imprisonment	Fine in INR	Sentence in default of payment of fine
302 IPC	DEATH SENTENCE He be hanged by the neck till he is dead	5000/-	-
6 of POCSO Act	DEATH SENTENCE He be hanged by the neck till he is dead	5000/-	-
363 IPC	RI for 07 years	5000/-	SI for 01 year
201 IPC	RI for 07 years	5000/-	SI for 01 year

1. On May 24, 2021, in Palwal, Haryana, the victim, who was just 17 days short of her 7th birthday, whom this Court would affectionately refer to as ‘Laadli’, a name that aptly fits her, was allegedly allured and abducted by the convict, Anand Singh, then aged 27 years, who by taking advantage of her parents’ departure for work, took Laadli to an isolated place in fields, where he brutally raped her at both orifices, then throttled her to death, and concealed her dead body in a pit.
2. The next day, i.e., on May 25, 2021, the police arrested and interrogated Anand Singh. Based on his alleged disclosure statement, the police recovered Laadli’s dead body from a nearby pit. Upon completion of the investigation, the police launched prosecution against Anand Singh, and he was charged by the trial Court for the commission of the offences as mentioned above. The trial Court held Anand Singh guilty and awarded him the death sentence as mentioned above.
3. Seeking confirmation of the death sentence, the trial Court sent the above-mentioned reference to this Court under §366⁹ of the CrPC, 1973 [§407 BNSS, 2023]. Challenging the conviction and the consequent sentence as captioned above, the convict also came before this Court by filing the present Criminal Appeal under §374(2) CrPC, 1973 [§415 BNSS, 2023].
4. On May 24, 2021, Laadli’s father gave a written complaint [Ext PW24/1 (Pg. 149 of the trial Court Record)] to the SHO of Police Station Mundkati, District Palwal, Haryana, stating that he is a tribal from Madhya Pradesh, resides at a tile plant, and works as a laborer. On May 24, 2021, he went to work, and his children were at the plant. Around 3:00 PM, he received a phone call from a laborer at his home site (plant) informing him that his

⁹ §366. Sentence of death to be submitted by Court of Session for confirmation.

daughter Laadli was not at her residence. Upon this, he (Laadli's father) returned home and, at his own level, searched for her, but she could not be traced. He stated that Laadli was around 7 years old and was wearing a blue salwar suit. Based on this information, the police registered the FIR [Ext PW-23/1 (pg. 151)] mentioned above on May 24, 2021, at 11-05 PM and also made an endorsement [Ext PW23/2 (pg. 149)] on this complaint. The investigation was entrusted to HC Bhojdutt [PW-23, HC/ASI].

5. The surrounding events of Laadli's tragic rape and murder unfolded on the following date, i.e., May 25, 2021, when Laadli's father filed a second complaint [Ext PW24/2 (pg. 319)] with the SHO. He alleged that after he had made the first complaint [Ext PW24/1] to the police, he enquired and got to know that his neighbor, Anand Singh (the convict herein), had not gone to work that day (when Laadli went missing). He further stated that when they had left home for work, Anand Singh took Laadli away. He further stated that he not only suspected but fully believed that Anand Singh had allured his daughter, raped her, killed her, and concealed her dead body. He further requested that Anand be arrested and interrogated about Laadli's whereabouts.

6. Based on the second complaint [Ext PW24/2], Investigator PW-23, HC/ASI Bhojdutt, handed over the case file to SHO/SI Pritam [PW-29] for further investigation. Accused Anand was arrested from Mundkati Chowk and during interrogation, apart from inadmissible portions of the statements, he made a disclosure statement that he could point out the place where he had hidden the victim's dead body after committing her rape and murder. After that, the accused allegedly led the police party to the spot which was a corner of an agricultural field, from where Laadli's dead body was found.

7. The Investigating Officer called the FSL team to inspect the crime scene, and on the same day, i.e., May 25, 2021, the Sr. Scientific Officer of the FSL team, Mr. Vinod Kumar Singh, [PW-19] reached the crime scene at 1 PM (pg. 263). He observed the dead body of a girl-child, whose age was reported to be seven years, in a pit measuring 08 feet x 8 feet and 05 feet deep. Although the Crime Scene Report [Ext PW19/1 (pg. 263)] states that the occurrence was reported to the police at around 12:00 PM on May 25, 2021, but in the absence of any allegations to the contrary, this appears to be an unintentional mistake, and we are ignoring it.

8. In the Crime Scene Report [Ext PW19/1], it is also mentioned that the girl child was tied by the neck with a cloth piece, and one end was tied to the trunk of a *Sheesham* tree. The girl was naked; her genitals were stained with blood, and bloodstained anal and vaginal discharge was present till the feet of the victim, and there were strangulation marks on the neck. They also noticed a white kurta with floral prints belonging to the deceased child,

small slippers, and a child's blue lower garment near her knees. Further, a black thread with a locket around the neck and a black waist thread were also seen on the body of the victim.

9. After that, on the instructions issued by Sr. Scientific Officer, PW-19 Vinod Kumar Singh, the police also called a photographer, obtained photographs of the victim, and made a video recording. Photographer Sanjay Arora [PW-3] took the victim's photographs [Ext PW-3/1 to PW-3/5 (pg. 193)], made a videorecording, and provided it on a CD [Ext PW-3/6 (pg. 195)], along with the certificate [Ext PW-3/8 (pg. 199)] under §65-B of the Indian Evidence Act. PW-18 DSP Dinesh Kumar and PW-15 HC Mahesh Kumar took possession of the photographs and the CD from Sanjay Arora [PW-3], vide Ext PW-3/7 (pg. 197). The police officers then took out Laadli's body from the pit and sent it to the hospital for her post-mortem examination.

10. A team of doctors conducted her post-mortem examination. As per the post-mortem report [Ext PW20/1 (pg. 271)], the victim was identified by her paternal uncles PW-6 Munna Lal and PW-33 Ram Kishore. The doctors observed a ligature mark on the neck, approximately 4 abrasive contusions on her left knee, right hand, and upper right thigh. Additionally, they observed a 1.5 cm x 0.5 cm laceration at the 3 o'clock position, present perianally, with a rectal tear. The doctors also noted that her hymen was ruptured, the labia majora swollen, and there was a complete perianal tear. According to the doctors' opinion in the post-mortem report, the cause of death was asphyxia resulting from a constricting force on the neck, which was ante-mortem in nature and sufficient to cause death in ordinary course of nature. The doctors also handed over the post-mortem report and sealed parcels containing vaginal swab, rectal swab, vulval swab, and cervical swab to ASI Munni [PW-12] vide Ext PW-12/5 (pg. 229) for forensic science examinations and seminal and DNA analysis. The opinion was confirmed upon receipt of the Forensic Science Laboratory's report.

11. Later, the Investigator also recorded the statement of a local stall owner, Lachhi [PW-8 (pg. 361)], who stated that on May 24, 2021, at 8 AM, accused Anand, along with the victim, had come to his stall, purchased two packets of biscuits, and then went along with the victim 'R'.

12. The accused's arrest was recorded in DDR No. 18, dated May 25, 2021, at 11:05 P.M. (pg. 155). After the accused's arrest, he was also medically examined, as recorded in the MLR report Ext PW22/1, (pg. 287), which states that the accused arrived at the hospital at 9:42 PM on May 25, 2021. The doctor detected abrasion over right shoulder and leg; no congenital abnormality was detected on his penis, which was well developed; however, the

doctor noted the presence of smegma. The doctor also seized his underwear and collected a blood sample for DNA analysis.

13. After completing the investigation and receiving the laboratory reports, the police filed a challan under §173(2) of the CrPC, 1973, before the Special Court/Additional Sessions Judge, (Fast Track) Palwal, under the penal provisions of IPC, 1860 and the POCSO Act, 2012, against the accused, Anand Singh.

14. Vide order dated Sep 23, 2021, the Judge, Special Court, Additional Sessions Judge (Fast Track), Palwal, framed charges against the accused for offences punishable under §§366-A, 302, and 201 of the IPC, §6 of the POCSO Act, and §§3(1)(i) & 2(v) of the SC/ST Act. The appellant did not plead guilty and claimed trial.

15. In the trial, PW-13 Rambir Singh Rathur, Non- Medical Assistant, Madhya Pradesh, tendered the victim's date of birth certificate, Ext PW-13/1, in evidence, which shows she was born on June 10, 2014. Thus, on the date of the crime, Laadli was aged 6 years, 11 months, and 14 days.

16. After completion of the prosecution evidence, the accused, in his statement recorded under §313 CrPC, denied all the incriminating circumstances put to him and stated the following,

"I have been falsely implicated. There was no blood or semen on my cloth. My blood sample was never taken nor compared by the Investigation Officer and Doctors. The DNA report and FSL report have been manipulated by the Police Officers in collusion with the complainant after receiving my blood sample, for test of Covid 19. No recovery was effected in pursuance of my disclosure statement. The recovery documents and the alleged witnesses of the same are manipulated. I did not get the dead body of the victim recovered. I was never seen with the victim at any point of time and the witnesses deposed falsely, in this regard, since they are interested witnesses. The present case was of blind murder. Since police could not trace the actual offender, I was falsely implicated in the present case. I never had enmity with the family of the victim. There was no motive for me to commit the crime."

17. However, the accused did not lead any evidence in his defence.

18. On completion of the trial, the trial Court was of the opinion that the evidence produced and proved before it was sufficient to establish Anand Singh's guilt. Consequently, the trial Court convicted Anand Singh for the charges of kidnapping, committing rape and murder of Laadli, causing disappearance of evidence by concealing her body, and sentenced him to death under §302 of IPC and §6 of POCSO Act.

19. In *Anokhilal v. State of MP*, [2019] 18 SCR 1196, pg. 1234, Dec 18, 2019, a three-Judge Bench of the Hon'ble Supreme Court holds,

[22]. Before we part, we must lay down certain norms so that the infirmities that we have noticed in the present matter are not repeated:-

i) In all cases where there is a possibility of life sentence or death sentence, learned Advocates who have put in minimum of 10 years practice at the Bar alone be considered to be appointed as *Amicus Curiae* or through legal services to represent an accused.

ii) In all matters dealt with by the High Court concerning confirmation of death sentence, Senior Advocates of the Court must first be considered to be appointed as *Amicus Curiae*.

iii) Whenever any learned counsel is appointed as *Amicus Curiae*, some reasonable time may be provided to enable the counsel to prepare the matter. There cannot be any hard and fast rule in that behalf. However, a minimum of seven days' time may normally be considered to be appropriate and adequate.

iv) Any learned counsel, who is appointed as *Amicus Curiae* on behalf of the accused must normally be granted to have meetings and discussion with the concerned accused. Such interactions may prove to be helpful as was noticed in *Imtiyaz Ramzan Khan* [(2018) 9 SCC 160].

20. Mr. Prateek Gupta, Advocate, who has more than 14 years of regular standing at the bar, including on the criminal side, and is a fourth-generation lawyer with a highly impressive legacy, was appointed as Amicus to assist this Court.

21. An analysis of the evidence and the submissions of Ld. Counsel for the convict, the State, and Ld. Amicus would lead to the following outcome.

22. Convict's counsel submitted that the victim's father initially received the phone call from a laborer, and the police did not lead any evidence about that laborer, his source of information, the searches he had done, or the time at which the victim had gone missing. The State's Counsel submits that this is irrelevant, and Ld. Amicus submitted that any lacunae must benefit the accused. An analysis of these assertions indicates careless investigation, but, given the COVID-19 restrictions which were in place at the time of incident, the Investigating Agencies' difficulties are understandable that they had to focus on the most material aspects alone. Otherwise also, even if this assertion is accepted, it still does not prejudice the accused, and we shall consider and rely only on evidence of sterling quality to rule out false or mistaken implication.

23. An apparent defect in the prosecution's case is evident from the complaint made by the victim's father, who in his cross-examination (pg. 475) stated that he was illiterate and could only sign in *Hindi*. A perusal of the testimony of PW-24, the victim's father (pg. 471 to pg. 479) indicates that he signed in broken "*Hindi*" (*Devnagari* script), whereas in the

complaint, although the signatures look similar to those signed in the testimony as PW-24, they appear to be that of someone who is not proficient in writing. By contrast, a perusal of the first complaint, Ext PW24/1, shows writing in a flow, and the handwriting appears to be that of someone else. The defence counsel did not cross-examine this part, and moreover, the victim's father admitted that Ext PW24/1 bears his signature. Although the manner in which the names of the signatories are written resembles; however, the spacing in the signatures is absolutely different than the spacing in the letters of his signatures on Ext PW-24/1. Even if the victim's father has admitted to signing Ext PW24/1, a bare perusal of the signatures clearly reflects imitation, and that they are different and not of the same person, because Ext PW24/1 is written by somebody who is proficient in writing *Hindi (Devnagari script)*, whereas the signatures of PW-24 on his statement in the Court are in an entirely different handwriting and clearly points out that the person has memorized the signatures and the handwriting is broken and scattered, spacing is more, and the *Aksharas* are not uniform.

24. The victim's father also stated in his cross-examination (pg. 477) that in the police station he had signed one blank paper also, but he stated that he did not remember it properly because the incident was two years back. He also stated that he had signed some documents when the dead body was recovered; however, he could not say as to what was that particular document. However, this fabrication would have no bearing on the outcome of the case because PW-24, the victim's father, was not a witness to the incident. Nonetheless, it shows the tactics the investigation agency adopted while investigating the case of rape and murder.

25. Laadli was not even 7 years of age, and her first fault was that she was born as a girl, and the second was that she was born to the downtrodden, the poorest of the poor. Even the black thread with a locket around Laadli's neck and an additional black thread worn at her waist, as supernatural protections which Laadli's parents believed would protect their girl child from evil forces, could not save her, because the perpetrator was worse than a devil, whose lust could not be controlled by the so-called magical remedies. Once the State takes control over all erstwhile value systems, it becomes imperative for the State to ensure that its people, irrespective of age, caste, class, color, or religion, treat each other as equals, deserve complete respect, have the right to live an uninterrupted life with complete dignity, and are rational, ethical, compassionate, kind, and empathetic.

26. PW-23 ASI Bhojdutt tendered the FIR as Ext PW-23/1 in evidence. The FIR was registered on May 24, 2021, at 23:05 hrs., i.e., 11.05 PM. A perusal of the FIR (Ext PW23/1) shows that a copy was received by the Judicial Magistrate concerned on May 26, 2021, at 10:47 AM. Thus, the copy of FIR was not sent to the Judicial Magistrate under

§157 of the CrPC, 1973 immediately, and there was a delay of about 35 hours in its dispatch to the Judicial Magistrate concerned. The delay raises suspicion that the FIR was ante-dated, but it would not benefit the accused, as he was not named therein.

27. Although Laadli's mother had stepped into the witness box and testified as PW-7, but the blue-colored lower lying beneath the dead body and the cloth (Kurta) used to tie Laadli to the tree were not shown to her by the Public Prosecutor or the first trial Judge to clarify that the clothes belonged to Laadli and that she was wearing them on that day. Similarly, when Laadli's father testified as PW-24, the prosecution tendered the multicolored cloth [Kurta] as MO/1 and the blue-colored lower as MO/2. Despite the evidence that these clothes were recovered from the pit where Laadli's body was found, neither the Public Prosecutor nor the second trial Judge recognized the importance of having the clothes identified by Laadli's parents.

28. This lapse mentioned above is not that of the Investigator and his Supervisory Officers but is of the Public Prosecutor and the trial Judges. In the present case, the trial Judge was probably replaced due to a transfer, and this occurred during his tenure, but the second trial Judge also failed to correct it or probably did not even notice it.

29. The Indian Evidence Act, through its §165,¹⁰ empowers the concerned Court to intervene in such a situation. The foundational duty of a Judge is to do justice to the parties, ensuring that no innocent person is convicted but no guilty person escapes unpunished—Every trial is a ship, which must mark to the shores, and when she is in troubled waters, the Trial Judge must be the last man off.¹¹

30. Be that as it may, the Investigators PW-23 ASI Bhojdutt and SHO PW-29 SI Pritam, along with the Sr. Scientific Expert PW-19, who had inspected the crime scene, duly established that these clothes, MO/1 and MO/2, were recovered from the pit where Laadli's dead body was also recovered. The video of the crime scene recorded by PW-3 Sanjay Arora and copied by him on CD Ext PW-3/6, which is proved by Ext PW-3/8, his

¹⁰. §165 Indian Evidence Act, 1872. — Judge's power to put questions or order production. — The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved: Provided also that this section shall not authorize any Judge to compel any witness to answer any question, or to produce any document which such witness would be entitled to refuse to answer or produce under sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.

¹¹ Punjab and Haryana High Court, *State of Punjab v. Sonu Singh*, MRC-2-2025, para 31, Mar 19, 2026.

certificate under §65-B of the Indian Evidence Act, when played showed that the pit was in an agricultural field and that there were no other clothes except those with the dead body that would establish that the clothes recovered from the pit were of Laadli.

31. On the one hand, the above mentioned lapse does not affect the proof of one of the most material pieces of evidence; on the other hand, it is an accurate assessment of the merits of the officers assigned to administer justice. Thus, an analysis of this shortcoming, namely the absence of the right kind of examination-in-chief by the public prosecutor and the Judge's silence in not putting relevant Court questions in this case does not prejudice the accused because the clothes recovered from the pit, along with the dead body, are connected with her, for the reasons that the floral cloth (Kurta) MO/1 was used by the accused to tie the victim to a tree-trunk.

32. In Shivaji Sahebrao Bobade & Anr. v. State of Maharashtra, [1974] 1 SCR 489, pg. 493; 1973-INSC-151, Aug 27, 1973, a three-Judge Bench of the Hon'ble Supreme Court holds,

[A-E]. The cherished principles or golden thread of proof beyond reasonable doubt which runs thro' the web of our law should not be stretched morbidly to embrace every hunch, hesitancy and degree of doubt. The excessive solicitude reflected in the attitude that a thousand guilty men may go but one innocent martyr shall not suffer is a false dilemma. Only reasonable doubts belong to the accused. Otherwise any practical system of justice will then break down and lose credibility with the community. The evil of acquitting a guilty person light-heartedly as a learned *author*¹² has sapiently observed, goes much beyond the simple fact that just one guilty person has gone unpunished. If unmerited acquittals become general, they tend to lead to a cynical disregard of the law, and this in turn leads to a public demand for harsher legal presumptions against indicated 'persons' and more severe punishment of those who are found guilty. Thus too frequent acquittals of the guilty may lead to a ferocious penal law, eventually eroding the judicial protection of the guiltless. For all these reasons it is true to say, with Viscount Simon, that "*a miscarriage of justice may arise from the acquittal of the guilty no less than from the conviction of the innocent. ..*" In short, our jurisprudential enthusiasm for presumed innocence must be moderated by the pragmatic need to make criminal justice potent and realistic. A balance has to be struck between chasing enhance possibilities as good enough to set the delinquent free and chopping the logic of preponderant probability to punish marginal innocents. We have adopted these cautions in analysing the evidence and appraising the soundness of the contrary conclusions reached by the courts below. Certainly, in the last analysis reasonable doubts must operate to the advantage of the appellant. In India the law has been laid down on these lines long ago.

33. Another aspect requiring analysis is that during the accused's medical examination, PW-22 Dr. Arindam Ghosh noted the presence of smegma on his penis.

¹² Glanville Williams in 'Proof of Guilt'. (2) [1934] L. R. 61 I.A., 398.6—L382 Sup.CD74

34. It has come in evidence that Laadli's father was with PW-6 Munna Lal, who stated that they had received a call at around 12 (Noon) about Laadli's missing from her home. Thus, as per PW-6 Munna Lal (pg. 349) he had received a call from a laborer from the plant at 12 P.M. Although the victim's father mentions the time of the call as 3 PM, but what is significant here is the time of the earliest information of Laadli's missing, which was 12 noon. Thus, it is reasonable to believe that the victim had already been raped and murdered before 12 PM (Noon). The accused was medically examined at 9:42 PM on May 25, 2021. Thus, the accused was examined after more than 30-33 hours of the last possible time of the alleged rape. According to Parekh¹³, "*The smegma is rubbed off during intercourse and takes about 24 hours to accumulate.*" According to Dr KS Narayan Reddy¹⁴, "*Smegma usually requires about 24 hours to collect.*"

35. A reference to medical jurisprudence makes it clear that the presence of smegma on a male's penis would be relevant if the accused is medically examined within 24 hours of the commission of rape and the doctor notices presence of considerable amount of smegma of the penis of such an accused, which might rule out penetration, subject to the age of the victim, the victim's sexual history, and the use of latex by the accused, etc.

36. In the present case, the accused was medically examined at least 30 hours after the minimum possible time of the alleged rape and thus the presence of smegma on the accused would not absolve him or be sufficient to prove that he had not penetrated.

37. The prosecution's case is based on circumstantial evidence, including the accused's last-seen with the victim, the recovery of the victim's body pursuant to the accused's disclosure statement, and the presence of the accused's DNA on the victim.

38. **EVIDENCE OF LAST SEEN:**

39. Laadli's mother, PW-7, and her father, PW-24, testified that they had left the victim at their home and got to know of her disappearance only after receiving a phone call at their workplace. The other prosecution witness, Munna Lal, who testified as PW-6, also did not state that he saw accused-convict Anand Singh with the victim. The inference that can safely be drawn from the evidence from Laadli's parents is relevant to the fact that when they left their house, she was alive and had not been assaulted. Given the above, this fact is not only established by the prosecution but also remains unrebutted.

40. PW8 Lachhi (pg. 361 TCR), a local shopkeeper, in his testimony stated that on May 24, 2021, at about 8:00 AM, the accused came to his shop with the victim, and he

¹³ Parekh's textbook of Medical Jurisprudence, Forensic Medicine and Toxicology, 6th edition, page 5.45.

¹⁴ Dr KS Narayan Reddy in Medical Jurisprudence and Toxicology, 1st edition, pg. 442.

purchased two packets of biscuits, and then left with the victim. In cross-examination, he stated that he was familiar with 8-9 laborers working in the plant but could not divulge their names. However, in examination-in-chief, PW8 (pg. 363) had identified Anand, who was present in the Court, as the same person who had visited his shop on May 24, 2021, with the victim and had purchased two packets of biscuits. In cross-examination, the credibility of the testimony of PW8 regarding the accused visiting his shop with the victim and purchasing two packets of biscuits has not been dented. Although PW-8 Lachhi, in his cross-examination, stated that he was familiar with only 8-9 persons working in the plant and did not know their names, but this does not call for an assumption that he was unaware of the name of the accused. Thus, through the testimony of PW-8, Lachhi, the prosecution has proved that the accused was last seen with the victim, with no significant time gap in between, and that she was never seen alive thereafter. The solitary statement of PW-8 is of sterling quality, shows no enmity with the accused or closeness with the victim's family, and has no other motive to make a false statement.

41. Given the above, the prosecution has been able to prove the evidence of last seen, i.e., the presence of the accused with the victim when she was last seen alive, shifting the burden on the accused to explain as to what had happened to her and where was she taken after he had purchased biscuits from the shop.

42. In Arjun Marik and Ors. v. State of Bihar, [1994] 2 S.C.R. 265, pg. 285; 1994-INSC-100, Mar 2, 1994, the Hon'ble Supreme Court holds,

[G – H]. Thus the evidence that the appellant had gone to Sitaram in the evening of 19.7.85 and had stayed in the night at the house of deceased Sitaram is very shaky and inconclusive. Even if it is accepted that they were there it would at best amount to be the evidence of the appellants having been seen last together with the deceased. But it is settled law that the only circumstance of last seen will not complete the chain of circumstances to record the finding that it is consistent only with the hypothesis of the guilt of the accused and, therefore, no conviction on that basis alone can be founded.

43. In Bodhraj @ Bodha and Ors. v. State of Jammu and Kashmir, 2002 Supp. (2) S.C.R. 67, pg. 85; 2002-INSC-360, Sep 03, 2002, the Hon'ble Supreme Court holds,

[B - C]. The last seen theory comes into play where the time gap between the point of time when the accused and deceased were seen last alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of crime becomes impossible. It would be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists. In the absence of any other positive evidence to conclude that accused and deceased were last seen together, it would be hazardous to come to a conclusion of guilt in those cases. ...

44. In State of U.P. v. Satish, [2005] 1 S.C.R. 1132, pg. 1142, 2005-INSC-68, Feb 08, 2005, the Hon'ble Supreme Court holds,

[C – D]. The last seen theory comes into play where the time-gap between the point of time when the accused and the deceased were seen last alive and when the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. It would be difficult in some cases to positively establish that the deceased was last seen with the accused when there is a long gap and possibility of other persons coming in between exists. In the absence of any other positive evidence to conclude that the accused and the deceased were last seen together, it would be hazardous to come to a conclusion of guilt in those cases.

45. In Ramreddy Rajeshkhanna Reddy and Anr. v. State of Andhra Pradesh, [2006] 3 S.C.R. 348, pg. 359, 2006-INSC-173, Mar 24, 2006, the Hon'ble Supreme Court holds,

[C]. The last-seen theory, furthermore, comes into play where the time gap between the point of time when the accused and the deceased were last seen alive and the deceased is found dead is so small that possibility of any person other than the accused being the author of the crime becomes impossible. Even in such a case courts should look for some corroboration.

46. In State of Goa v. Sanjay Thakran, [2007] 3 SCR 507; 2007-INSC-241, Mar 02, 2007, the Hon'ble Supreme Court holds,

[29]. From the principle laid down by this Court, the circumstance of last-seen together would normally be taken into consideration for finding the accused guilty of the offence charged with when it is established by the prosecution that the time gap between the point of time when the accused and the deceased were found together alive and when the deceased was found dead is so small that possibility of any other person being with the deceased could completely be ruled out. The time gap between the accused persons seen in the company of the deceased and the detection of the crime would be a material consideration for appreciation of the evidence and placing reliance on it as a circumstance against the accused. But, in all cases, it cannot be said that the evidence of last seen together is to be rejected merely because the time gap between the accused persons and the deceased last seen together and the crime coming to light is after a considerable long duration. There can be no fixed or straight jacket formula for the duration of time gap in this regard and it would depend upon the evidence led by the prosecution to remove the possibility of any other person meeting the deceased in the intervening period, that is to say, if the prosecution is able to lead such an evidence that likelihood of any person other than the accused, being the author the crime, becomes impossible, then the evidence of circumstance of last seen together, although there is long duration of time, can be considered as one of the circumstances in the chain of circumstances to prove the guilt against such accused persons. Hence, if the prosecution proves that in the light of the facts and circumstances of the case, there was no possibility of any other person meeting or approaching the deceased at the place of incident or before the commission of the crime, in the intervening period, the proof of last seen together would be relevant evidence. For instance, if it can be demonstrated by showing that the accused persons were in exclusive possession of the place where the incident occurred or where they were last seen together with the

deceased, and there was no possibility of any intrusion to that place by any third party, then a relatively wider time gap would not affect the prosecution case.

47. In Kanhaiya Lal v. State of Rajasthan, [2014] 3 S.C.R. 744, pg. 751, 2014-INSC-190, Mar 13, 2014, the Hon'ble Supreme Court holds,

[12]. The circumstance of last seen together does not by itself and necessarily lead to the inference that it was the accused who committed the crime. There must be something more establishing connectivity between the accused and the crime. Mere non-explanation on the part of the appellant, in our considered opinion, by itself cannot lead to proof of guilt against the appellant.

48. In Digamber Vaishnav and Anr. v. State of Chhattisgarh, [2019] 2 S.C.R. 844, pg. 861, 862, 2019-INSC-308, Mar 5, 2019, a three-Judge Bench of the Hon'ble Supreme Court holds,

[40]. ...To constitute the last seen together factor as an incriminating circumstance, there must be close proximity between the time of seeing and recovery of dead body.

49. In Surajdeo Mahto v. State of Bihar, [2021] 8 S.C.R. 911; 2021-INSC-379, Aug 04, 2021, a three-Judge Bench of the Hon'ble Supreme Court holds,

[30]. We may hasten to clarify that the fact of last seen should not be weighed in isolation or be segregated from the other evidence led by the prosecution. The last seen theory should rather be applied taking into account the case of the prosecution in its entirety. Hence, the Courts have to not only consider the factum of last seen, but also have to keep in mind the circumstances that preceded and followed from the point of the deceased being so last seen in the presence of the accused.

50. In Ram Gopal S/O Mansharam v. State of M.P., SLP (Crl). No. 9221 of 2018, Feb 17, 2023, the Hon'ble Supreme Court holds,

[6]. It may be noted that once the theory of "last seen together" was established by the prosecution, the accused was expected to offer some explanation as to when and under what circumstances he had parted the company of the deceased. It is true that the burden to prove the guilt of the accused is always on the prosecution, however in view of Section 106 of the Evidence Act, when any fact is within the knowledge of any person, the burden of proving that fact is upon him. Of course, Section 106 is certainly not intended to relieve the prosecution of its duty to prove the guilt of the accused, nonetheless it is also equally settled legal position that if the accused does not throw any light upon the facts which are proved to be within his special knowledge, in view of Section 106 of the Evidence Act, such failure on the part of the accused may be used against the accused as it may provide an additional link in the chain of circumstances required to be proved against him. In the case based on circumstantial evidence, furnishing or non-furnishing of the explanation by the accused would be a very crucial fact, when the theory of "last seen together" as propounded by the prosecution was proved against him.

51. In Shambu Nath Mehra v. The State of Ajmer, [1956] 1 SCR 199, *pg.* 203- 204, 1956-INSC-15, Mar 12, 1956, the Hon’ble Supreme Court, explaining the scope of § 106 of the Evidence Act in criminal trial, holds,

This lays down the general rule that in a criminal case the burden of proof is on the prosecution and Section 106 is certainly not intended to relieve it of that duty. On the contrary, it is designed to meet certain exceptional cases in which it would be impossible, or at any rate disproportionately difficult, for the prosecution to establish facts which are “especially” within the knowledge of the accused and which he could prove without difficulty or inconvenience. The word “especially” stresses that. It means facts that are *pre-eminently* or *exceptionally* within his knowledge. If the section were to be interpreted otherwise, it would lead to the very startling conclusion that in a murder case the burden lies on the accused to prove that he did not commit the murder because who could know better than he whether he did or did not. It is evident that that cannot be the intention and the Privy Council has twice refused to construe this section, as reproduced in certain other Acts outside India, to mean that the burden lies on an accused person to show that he did not commit the crime for which he is tried. These cases are *Attygalle v. Emperor* [AIR 1936 PC 169] and *Seneviratne v. R.* [(1936) 3 All ER 36, 49].

52. In Sawal Das v. State of Bihar, [1974] 3 SCR 74, *pg.* 79, 1974-INSC-4, Jan 9, 1974, the Hon’ble Supreme Court holds,

[D]. Neither an application of Section 103 nor of 106 of the Evidence Act could, however, absolve the prosecution from the duty of discharging its general or primary burden of proving the prosecution case beyond reasonable doubt. It is only when the prosecution has led evidence which, if believed, will sustain a conviction, or, which makes out a *prima facie* case, that the question arises of considering facts of which the burden of proof may lie upon the accused.

53. In Deonandan Mishra v. The State of Bihar, [1955] 2 S.C.R. 570, *pg.* 582; 1955-INSC-47, Sep 28, 1955, a three-Judge Bench of the Hon’ble Supreme Court holds,

It is true that in a case of circumstantial evidence not only should the various links in the chain of evidence be clearly established, but the completed chain must be such as to rule out a reasonable likelihood of the innocence of the accused. But in a case like this where the various links as stated above have been satisfactorily made out and the circumstances point to the appellant as the probable assailant, with reasonable definiteness and in proximity to the deceased as regards time and situation, and he offers no explanation, which if accepted, though not proved, would afford a reasonable basis for a conclusion on the entire case consistent with his innocence, such absence of explanation or false explanation would itself be an additional link which completes the chain. We are, therefore, of the opinion that this is a case which satisfies the standards requisite for conviction on the basis of circumstantial evidence.

54. In Kali Ram v. State of Himachal Pradesh, [1974] 1 SCR 722, *pg.* 734- 735, 1973-INSC-173, Sep 24, 1973, a three-Judge Bench of the Hon’ble Supreme Court holds,

[G – B]. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the

evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence. Rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable: it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations.

55. An analysis of the proved and established facts in the light of the judicial precedents mentioned above and points towards only one view, and that view is the involvement of the accused Anand Singh and no one else.

56. EVIDENCE OF RECOVERY OF LAADLI'S DEAD BODY PURSUANT TO THE ACCUSED'S DISCLOSURE STATEMENT:

57. PW-23 ASI Bhojdutt stated that on the same day when Laadli's father moved the second complaint, the accused Anand Singh was arrested at Mundakati Chowk and interrogated. During the interrogation, he made a disclosure statement, Ext PW23/3 (pg. 301), in which he confessed about his involvement in the commission of the crime in the present case.

58. The disclosure statement Ext PW23/3 contains inadmissible confessions and also indicates that he could get the dead body of Laadli recovered from the place where the girl child's dead body was concealed by him. The disclosure statement Ext PW23/3 bears the accused's thumb impression, is attested by PW-23, Head Constable Bhojdutt, as a witness, and is recorded by PW-29, SHO/SI Pritam. After that, pursuant to the disclosure statement Ext PW23/3, Laadli's body was recovered at the instance of the accused Anand, vide discovery memo Ext PW23/4 (pg. 303), and a memo [Ext PW-12/1 (pg. 213)] for the recovery of the dead body was also prepared.

59. PW-24, the victim's father, admitted that it was correct that the police had traced the dead body. However, he explained that the dead body was recovered after the arrest of the accused (pg. 477). PW-6 Munna Lal had stated in his examination in chief (pg. 351) that at about 2:30 P.M., a phone call was received from the police that dead body of the victim was found by the police in the field area. Thereafter, it came in our notice that accused Anand had taken the victim with him.

60. The Investigator called the FSL team to inspect the crime scene on the same day, i.e., May 25, 2021. PW-19, Sr. Scientific Officer, FSL Madhuban, tendered in evidence the scene-of-crime report, Ext PW-19/1 (pg. 263). A perusal of Ext PW-19/1 reveals that it was prepared on May 25, 2021 (pg. 269). According to this report, the experts, including PW-19, observed Laadli's dead body in a pit and examined the crime scene. PW-19, Sr. Scientific Officer reached at the spot at 1:00 PM and departed at 3:00 PM. He observed the dead body of a girl, reported to be seven years old, in a pit measuring 08 feet x 08 feet wide and 05 feet deep. Thus, the police were aware of the presence of the dead body on May 25, 2021, well before 1 PM, because the FSL team would have taken time to travel and reach the crime scene.

61. PW-12 ASI Munni (pg. 377) testified that on receiving a call about recovery of the victim's dead body, she was called to the spot to conduct inquest proceedings and she had reached the scene of crime. In cross-examination (pg. 379), PW-12 stated that the body had already been recovered by the police when she received a call at 2/2-15 PM.

62. Another local witness, PW-6 Munna Lal, testified that on May 25, 2021, at about 02-30 PM, a phone call was received from the police that the police had found the victim's dead body in the field area (pg. 351).

63. PW-23 Head Constable Bhojdutt stated in his cross-examination that the accused Anand Singh was arrested on May 25, 2021, at 4 P.M. (pg. 467).

64. Investigator PW-29 SHO/SI Pritam, in cross-examination, (pg. 507) stated that the accused was arrested from a residential quarter near village Marroli in the evening hours around 4:00/5:00 PM. He further stated that the accused's disclosure statement was recorded at the place of arrest.

65. The disclosure statement Ext PW23/3 does not disclose or specify the time at which it was recorded on May 25, 2021. The accused's arrest was recorded in DDR No. 18, dated May 25, 2021, at 11:05 P.M. (pg. 155).

66. The central question is whether the deceased's body was recovered pursuant to the accused's disclosure statement or by the police before the accused's arrest. The documentary and oral evidence establish that the dead body had already been recovered before 1 PM, which is why the FSL team was called to inspect the crime scene, which arrived at 1 PM. Regarding the accused's apprehension, the Investigators did not specify the time as to when he was taken into custody. Thus, on the face of it, it shall be unsafe to rely upon the accused's disclosure statement, Ext PW23/3.

67. There is another improbability that further establishes the fabrication of the disclosure statement Ext PW23/3. A perusal of the disclosure statement Ext PW23/3 (pg. 301) shows that it is a typed copy.

68. PW-29 SHO/SI Pritam stated in his cross-examination (pg. 507) that the second application (Complaint) was received in the afternoon, around 2:00 PM, and that the accused was arrested from Mundkati chowk in village Marroli in the evening hours, between 4:00 and 5:00 PM. He further stated that the accused's disclosure statement was recorded at the place of arrest. The disclosure statement is in *Devnagri* script and bears the accused's thumb impression and is a typed document. The Investigator did not explain that how it was printed. The prosecution did not state about carrying any computer/laptop, printer, and UPS with them and in its absence, it would create a possibility that it was typed and printed in the police station itself.

69. An analysis of the above makes it crystal clear that the disclosure statement was concocted and fabricated by the police, which in fact is duly established because the disclosure statement Ext PW23/3 is in a typed format, whereas there is no evidence regarding the availability of a laptop and a printer with the police in their investigation kit.

70. In *Dinesh Kumar v. The State of Haryana*, [2023] 4 SCR 220, pg229; 2023-INSC-493, May 04, 2023, the Hon'ble Supreme Court holds,

[8]. ...If the disclosure has been made by the accused to the police while he was in their custody and such a disclosure leads to discovery of a fact then that discovery is liable to be read as evidence against the accused in terms of Section 27 of the Act. All the same, the distinguishing feature of such a discovery must be that such a disclosure must lead to the discovery of a "distinct fact". The recovery of the stolen tractor, the place where the murder was committed and the place where body was thrown in the canal were facts which were already in the knowledge of the police, since it is the case of the prosecution that the co-accused Mange Ram, who was arrested by the police 2 days preceding the arrest of the present appellant, had earlier led to the same discoveries on 12th, 13th & 14th of May, 2000. So, this disclosure and discovery made thereafter cannot be read against the present appellant. There cannot be a "discovery" of an already discovered fact!

71. The Mobile FSL team [MFSU] reached the crime scene at 1 PM on May 25, 2021, noticed Laadli's dead body, and prepared Crime Scene Report Ext PW-19/1. Given this documentary evidence, if the prosecution wanted to establish the recovery of Laadli's dead body pursuant to the accused's disclosure statement, then it was pre-requisite to prove that the accused Anand Singh had already been taken into custody before the FSL team was called and also that the disclosure statement Ext PW23/3 was scribed before the information was sent to FSL. No such fact is proved. On the contrary, the evidence shows that the accused was arrested on the evening of May 25, 2021, and the disclosure statement

was prepared as a typed document, which establishes that the disclosure statement Ext PW-23/3 was fabricated subsequent to the discovery of the dead body. An analysis of the above relevant facts establishes that the police were aware of the presence of the dead body of Laadli before the accused was apprehended, and later they fabricated a disclosure statement at the instance of the accused. Given this, the prosecution has failed to prove the fact of the disclosure statement and the recovery of the dead body at the instance of the accused.

72. DNA -LINK EVIDENCE AND CHAIN OF CUSTODY:

73. State’s Counsel submits that the presence of the accused’s DNA on victim’s clothes is conclusive; as such, it is an open-and-shut case against the accused.

74. The convict’s Counsel refers to the statement of the accused recorded under §313 CrPC, 1973, and claims false implication. She further submits that the blood sample taken from the accused was used to fabricate evidence against him, and that the sample was taken under the guise of COVID-19 testing.

75. The Doctors who conducted the postmortem examination of the victim testified as PW-20, Dr. Pushpender Singh (pg. 421) and PW-21, Dr. Asha Dagar (pg. 439). They also tendered their affidavits in evidence as Exhibits PW-20/A (pg. 427), PW-21/A (pg. 445), respectively. The Doctors also proved PMR as Ext PW-20/1, X-Ray films as Ext PW-20/2 to PW-20/5 and identified the blue multi-colored cloth MO-1.

76. PW-12 ASI Munni (pg. 377) testified to the recovery of Laadli’s dead body and of having received the postmortem report and the sealed parcels from the doctors vide memo Ext PW-12/5.

77. PW-22, Dr. Arindham Ghosh (pg. 449), examined the accused Anand Singh and tendered his MLR in evidence as Ext PW22/1 (pg. 287). He also stated that he had taken possession of blue-colored underwear of the accused and 3 ml blood sample of the accused and handed them over to the Investigating Officer for depositing the same in RFSL for DNA analysis.

78. Since the prosecution has collected and relied upon scientific evidence, it is incumbent to test the chain of custody, the link evidence, and its relevance. To establish the link and to prove the chain of custody, the DNA evidence is presented in the following tabular format.

79. BLOOD SAMPLE OF ACCUSED ANAND SINGH:

Date & No. of Exhibit	Exhibit Name	Description and Findings	TCR Page
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PW-23 ASI Bhojdutt	Examination- in-chief	On 25.05.2021, the complainant "B" moved another complaint to me vide which he disclosed that accused Anand had enticed away the victim. He also disclosed that accused Anand had committed rape with victim and murdered her and has hidden the dead body of the victim at an unknown place. I handed over the case file to the then SHO, P.S. Mundkatti for further investigation. On the same day, accused Anand was arrested from Mundkati Chowk.	457- 459
PW-23 ASI Bhojdutt	Cross examination	The intimation of arrest was given to the father of the accused by the SHO. I cannot tell the mobile phone number of the father of the accused. I cannot tell the time of intimation of arrest given to the father of the accused. The accused was arrested from Mundkati Chowk and was interrogated there. The accused was arrested at around 4:00 PM.	467
PW-29 SI Pritam	Cross examination	The accused was arrested from residential quarter near village Marroli in the evening hours around 4:00/5:00 PM. No public witness was joined at the time of arrest of the accused as the arrest was conducted in the forest area and no public person was present at there.	507- 509
25.05.2021 Ext PW22/1	Medical Examination at Civil Hospital Haryana	Accused Anand Singh arrived for Medical Examination conducted by Dr. Arindam Ghosh Brought by SI Pritam Singh Blood sample for DNA examination taken 3 ml in EDTA vial and handed over to police for DNA analysis at RFSL Bhondsi, Gurugram	287- 299
PW-29 SI Pritam	Examination- in-chief	After medico-legal examination of the accused Anand, doctor handed over one envelope sealed with 5 seals of "SS", one Pulinda sealed with 5 seals of "SS" and one Pulinda sealed with 1 seal of "SS" were handed over, which were taken into police possession, vide memo Ex.PW23/8.	503- 505
PW-22 Dr Arindam Ghosh	Examination- in-chief	Deposed that- On 25.05.2021, I was posted as MO in Civil Hospital Palwal. Accused Anand was produced before me for medico- legal examination. Accordingly. I medico-legally examined him and prepared MLR Ex.PW22/1 which bears my signatures. I had also taken a 3 ml blood sample of the accused in EDTA vial and handed over the same to the Investigation Officer, to deposit the same in the RFSL for DNA analysis.	449
25.05.2021 Ext PW23/8	Memo of possession	Doctor has handed over sealed parcels after medical examination of accused Anand Singh, taken into police possession sealed with 5 seals of SS prepared by SHO Witness: HC Bhojdutt	313
PW-23 ASI Bhojdutt	Examination- in-chief	After medico-legal examination of the accused Anand, doctor handed over sealed parcels,	461

		which were taken into police possession vide memo Ex.PW23/8.	
21.02.2023 Ext PW16/A	Affidavit of PW16 SI Prem Chand	Stated- I was posted at Malkhana PS Mundkati. On 25.05.2021, ASI Pritam Singh and ASI Munni have deposited the following sealed parcels with me. 5. One sealed parcel having five seals of SS. 6. One sealed parcel having five seal of SS having pyjama of the deceased. 7. One sealed parcel having one seal of SS for DNA. I got the barcode affixed and Bhondsi vide RC No. 129 dt. 01-06-2021 sent to the RFSL and deposited the receipt dt. 02-06-2021.	399
04.06.2021 Ext PW30/1	Case property received by RFSL, Bhondsi (Gurugram), Haryana on 02.06.2021	Report Opinion RFSL No. 21/RFSLGGM/2106021073; B-272/21 Through SI Premchand-576/PWL Prepared by Anil Kumar, Senior Scientific Assistant (Biology) Regional Forensic Science Laboratory Bhondsi, Gurugram (Haryana) Parcel VII bearing seal impression 1-SS: Blood sample bearing bar code No. 27878-210602-1131700 stated to be of accused- Forwarded as such in original to DNA Division, FSL, H, Madhuban in cold chain for DNA examination.	177-178
31.05.2023 Ext P31/1	Case property received by FSL, Madhuban, Karnal on 21.06.2021	Ref No: FSL (H).21/RFSLGGM-2106021073; DNA-521/21 Prepared by Dr. Surjit Kumar, Senior Scientific Officer (S)/DNA Forensic Science Laboratory (H) Madhuban, Karnal Parcel 7 bearing seal impression 1-SS: One sealed vacutainer vial labelled as AG/GHP/2021/52 dt. 25/05/2021. 7) Blood sample marked as item No.7 CONCLUSION: The Y-STR analysis indicates that: DNA profile of stains on source of item No.1A (Cloth piece); Source of item No.6 (Underwear) & Source of item No.8 (Pyjama) is matching with the DNA profile obtained from blood sample of accused (Source of item No.7).	187-188

80. CLOTH (WHITE KURTA WITH FLORAL DESIGN) MO/1 RECOVERED FROM THE CRIME-SCENE:

Date & No. of Exhibit	Exhibit Name	Description and Findings	TCR Page
25.05.2021	Scene of Crime	Member(s) of the Scene of Crime (SOC) team: VINOD KUMAR SINGH, Senior Scientific	263-269

Ext PW19/1	Report by Mobile Forensic Science Unit, Palwal	Officer Time of arrival: 1.00 PM Time of departure: 3.00 PM OBSERVATIONS: (iii) A deceased girl child is seen to be tied by neck to a shisham tree trunk. The ligature material in the neck of the deceased is seen to be a white kurta (of a child) having floral design. The ligature in the neck is seen to have the knot at the back of the neck of the victim. The pit surface is dry and is seen to have blue lower of a child near the knees of the child. INSTRUCTIONS TO THE I.O.: (iii) Take into possession the ligature material (with knots intact) and sent it to the DIRECTOR, FSL for examination in the Physics Division of FSL.	
PW-19 Vinod Kumar Singh, Senior Scientific Officer	Recalled for Re-examination	(At this stage a sealed parcel opened with the permission of the Court and taken out blue multi-colour cloth and shown to the witness who identify the same which was taken by him and handed over to the I.O. The cloth is Ex.MO/1).	417-419
PW-23 ASI Bhojdutt	Examination-in-chief	(At this stage, a blue multi-coloured cloth was shown to the witness who identified the same, as taken in possession by I.O. in his presence as already exhibited is Ex.MO/1).	463
PW-24 Father of deceased (name withheld)	Examination-in-chief	(At this stage, a blue multi-coloured cloth was shown to the witness, who identified the same, as taken by I.O. in his presence. already exhibited is Ex.MO/1).	475
PW-29 SI Pritam	Examination-in-chief	Deposed that on 24.05.2021, I was posted as SHO in P.S. Mundkati. (At this stage, a blue multi-coloured cloth was shown to the witness who identified the same, as taken in possession by L/ASI Munni, in his presence, as already exhibited is Ex.MO/1).	499, 507
25.05.2021 Ext PW12/D	Death Report	7. Condition of inner clothes and jewellery etc. which clearly shows that the death was not due to unnatural causes: No cloth on body. Blue color cloth found around neck of victim hanged and tied to Shisham tree Prepared by: ASI Munni Devi PS Women	215
PW-12	Examination-in-chief	I conducted proceedings under Section 174 CrPC and prepared inquest report Ex. PW12/2.	377

ASI Munni			
25.05.2021 Ext PW20/1	Post-mortem Report	General description light blue and orange colored printed cloth as ligature material around neck with knot present over right side	273
PW-20 Dr Pushpender Singh, GH Palwal	Examination- in-chief	Deposed that on 25.05.2021, I was posted as MO in Civil Hospital, Palwal. On that day, SMO, Civil Hospital, Palwal, constituted a Board of Doctors comprising myself Dr. Asha Dagar, Dr. Naveen and Dr. Akshay Jain for conducting the postmortem of the dead body of deceased. Accordingly, the above named Board of Doctors conducted the postmortem of the dead body of deceased "R" and prepared MLR Ex.PW20/1. (At this stage a parcel of blue multi-colour cloth shown to the witness who identify the same which was taken by the Board of Doctors at the time of postmortem examination of the dead body which is Ex.MO/1).	421- 423
PW-21 Dr. Asha Dagar GH Palwal	Examination- in-chief	Deposed that on 25.05.2021, I was posted as MO in Civil Hospital, Palwal. On that day, SMO, Civil Hospital, Palwal, constituted a Board of Doctors comprising myself Dr. Pushpender Singh, Dr. Naveen and Dr. Akshay Jain for conducting the postmortem of the dead body of deceased. Accordingly, the above named Board of Doctors conducted the postmortem of the dead body of deceased "R" and prepared MLR Ex.PW20/1. (At this stage a parcel of blue multi-colour cloth shown to the witness who identify the same which was taken by the Board of Doctors at the time of postmortem examination of the dead body which is Ex.MO/1).	439- 441
21.02.2023 Ext PW16/A	Affidavit of PW16 SI Prem Chand	Stated- I was posted at Malkhana PS Mundkati. On 25.05.2021, ASI Pritam Singh and ASI Munni have deposited the following sealed parcels with me. 5. One sealed parcel having five seals of SS. 6. One sealed parcel having five seal of SS having pyjama of the deceased. 7. One sealed parcel having one seal of SS for DNA. I got the barcode affixed and Bhondsi vide RC No. 129 dt. 01-06-2021 sent to the RFSL and deposited the receipt dt. 02-06-2021.	399
04.06.2021 Ext PW30/1	Case property received by RFSL, Bhondsi	Report Opinion RFSL No. 21/RFSLGGM/2106021073; B-272/21 Through SI Premchand-576/PWL Prepared by Anil Kumar, Senior Scientific	177- 178

	(Gurugram), Haryana on 02.06.2021	Assistant (Biology) Regional Forensic Science Laboratory Bhondsi, Gurugram (Haryana) Parcel No.1 bearing seal impression 5-SS: Sealed cloth parcel bearing Barcode No.27878-210602-1131772 containing exhibit 1a and 1b stated to be of deceased. Exhibit 1a: One dirty light blue and orange colored printed cloth piece with 2 knots described as used as ligature material. Laboratory Examination: 1. Blood was detected on exhibit-1a (Cloth piece). 2. Human semen was detected on exhibit-1a (cloth piece). Note: 4. Parcel No. I is being forwarded to DNA Division, FSL, H, Madhuban for DNA examination.	
31.05.2023 Ext P31/1	Case property received by FSL, Madhuban, Karnal on 21.06.2021	Ref No: FSL (H).21/RFSLGGM-2106021073; DNA-521/21 Prepared by Dr. Surjit Kumar, Senior Scientific Officer (S)/DNA Forensic Science Laboratory (H) Madhuban, Karnal Parcel 1 bearing seal 4-AK RFSL (H) BHONDSI GGM: One sealed yellow envelope labelled as 21/RFSLGGM/2106021073, B-272/21, P-1, Barcode: 27878-210602-1131757, containing- 1A). One cut & dirty multicoloured printed cloth piece marked as item No.1A. RESULT OF EXAMINATION: 2) The item No. 1A, 6, 7 & 8 yielded amplification of DNA whose genotype is Male i.e. XY. 4) DNA profile of item No.1A & 8 amplify mix profile in Autosomal STR. 6) The Y-DNA profile obtained from item Nos.1A, 6 & 8 is compared with Y-DNA profile of item No.7. 7) The Y-allelic pattern of item Nos.1A, 6 & 8	187- 188

		matches with the Y-allelic pattern of item No.7. CONCLUSION: The Y-STR analysis indicates that: DNA profile of stains on source of item No.1A (Cloth piece); Source of item No.6 (Underwear) & Source of item No.8 (Pyjama) is matching with the DNA profile obtained from blood sample of accused (Source of item No.7).	
PW-31 Dr Surjit Kumar	Examination-in-chief	Deposed that on 31.05.2021, I was posted as Senior Scientific Officer (S)/DNA Forensic Science Laboratory Madhuban, Karnal (Haryana). On that day, I prepared my Report Ex.P31/1 which bears my signature.	517

81. VICTIM'S BLUE COLORED PYJAMA MO/2:

Date & No. of Exhibit	Exhibit Name	Description and Findings	TCR Page
25.05.2021 Ext PW19/1	Scene of Crime Report by Mobile Forensic Science Unit, Palwal	Member(s) of the Scene of Crime (SOC) team: VINOD KUMAR SINGH, Senior Scientific Officer Time of arrival: 1.00 PM Time of departure: 3.00 PM OBSERVATIONS: (iii) The pit surface is dry and is seen to have blue lower of a child near the knees of the child.	263-269
PW-19 Vinod Kumar Singh, Senior Scientific Officer	Examination-in-chief	Stated- on 25.05.2021 while I was posted as above, and upon receiving a telephonic message from SI Pritam Singh, SHO P.S. Mundkati, I visited the scene of crime involved in this case and examined it as well as the deceased scientifically and submitted my report Ex.PW19/1 which bears my signatures in ink.	413
PW-19 Vinod Kumar Singh, Senior Scientific Officer	Recalled for Re-examination	Another sealed parcel opened with the permission of the Court and taken out blue colour lower and shown to the witness who identify the same which was taken by him and handed over to the 1.O. The cloth is Ex.MO/2	417-419
PW-19 Vinod Kumar Singh, Senior Scientific Officer	Cross-examination	Stated- the lower was recovered from the bottom of the pit.	419

25.05.2021 Ext PW23/6	Memo of possession	Taken into possession blue colour pyjami of deceased victim, prepared separate parcel sealed with 5 seals of SS prepared by SHO Witness: Victim's father Witness: HC Bhojdutt Witness: Ram Kishore	307
PW-23 ASI Bhojdutt	Examination- in-chief	Investigation Officer lifted blood-stained mud, a pair of slippers and a blue colour pajami from the spot vide memo Ex.PW23/6 which bears my signatures. (Another blue colour lower was shown to the witness who identified the same, as taken into possession by I.O. in his presence, already exhibited as Ex.MO/2).	459- 461, 463- 465
PW-24 Father of deceased (name withheld)	Examination- in-chief	police also recovered a blue colour pajami , slippers of my daughter and blood-stained mud. from the place where dead body of my daughter was lying, vide memo Ex.PW23/6. (Also a blue colour lower was shown to the witness who identified the same, as taken into possession by LO. in his presence. already exhibited Ex.MO/2).	473- 475
PW-29 SI Pritam	Examination- in-chief	Deposed that on 24.05.2021, I was posted as SHO in P.S. Mundkati. Investigation Officer lifted blood- stained mud, a pair of slippers and a blue colour pajami from the spot, vide memo Ex. PW23/6 which bears signatures of HC Bhojdutt (Another blue colour lower was shown to the witness who identified the same, as taken into possession by him as already exhibited as Ex.MO/2).	499, 503, 507
PW-33 Ram Kishore	Examination- in-chief	The accused also got recovered a blue colour Pajami , a pair of slippers and the police also lifted the blood-stained mud on the place of occurrence, which was taken into police possession, vide memo Ex.PW23/6. The memo was signed by me and the father of the victim.	527
PW-29 SI Pritam	Cross- examination	The mud-stained blood, a pair of slippers and one blue colour pajami were recovered by me.	509
21.02.2023 Ext PW16/A	Affidavit of PW16 SI Prem Chand	Stated- I was posted at Malkhana PS Mundkati. On 25.05.2021, ASI Pritam Singh and ASI Munni deposited the following sealed parcels with me. 6. One sealed parcel having five seals of SS having pyjami of the deceased. I got the barcode affixed and Bhondsi vide RC No. 129 dt. 01-06-2021 sent to the RFSL and deposited the receipt dt. 02-06-2021.	399
04.06.2021 Ext PW30/1	Case property received by RFSL, Bhondsi (Gurugram),	Report Opinion RFSL No. 21/RFSLGGM/2106021073; B-272/21 Through SI Premchand-576/PWL Prepared by Anil Kumar, Senior Scientific Assistant (Biology) Regional Forensic Science Laboratory Bhondsi, Gurugram (Haryana)	177- 178

	Haryana on 02.06.2021	Parcel VIII bearing seal impression 5-SS: Sealed cloth parcel bearing Barcode No.27878-210602-1131772 containing exhibit 8 stated to be of deceased. Exhibit 8: One dirty blue colored pyjami . Laboratory Examination: 1. Blood was detected on exhibit-8 (Pyjami). 2. Semen could not be detected on exhibit-8 (Pyjami). Note: 4. Parcel No. VIII is being forwarded to DNA Division, FSL, H, Madhuban for DNA examination.	
16.06.2021 Ext PW28/A	Case property received in Serology Division, RFSL, Bhondsi (Gurugram), Haryana on 09.06.2021	Report Opinion RFSL No. 21/RFSLGGM/2106021073; BH/S-113/2021 Prepared by Anju Bala, Senior Scientific Officer, Serology, Regional Forensic Science Laboratory Bhondsi, Gurugram Parcel No. 8 bearing seal impression 4-AK RFSL (H) Bhondsi GGM: It contained exhibit-8. Exhibit-8: One light blue color pyjami soiled with earth. Laboratory Examination: 1. Blood was detected on exhibit-8 (Pyjami). NOTE: 2. After the examinations the exhibits along with their original wrappers have been sealed with the seal of AB SERO RFSL GGN.	171-173
PW-28 Dr Anju Bala, Senior Scientific Officer, Serology, RFSL, Bhondsi	Examination-in-chief	Deposed that 16.06.2021, I was posted as Senior Scientific Officer (Serology) Regional Forensic Science Laboratory Bhondsi, Gurugram (Haryana). On that day, I prepared my Report Ex.PW28/1 (containing 2 pages) which bear my signatures. I advised for the DNA profiling to the Head of the Biology Department, FSL, Bhondsi and returned all the 3 parcels to the Biology Department.	495
31.05.2023 Ext P31/1	Case property received by FSL, Madhuban, Karnal on 21.06.2021	Ref No: FSL (H).21/RFSLGGM-2106021073; DNA-521/21 Prepared by Dr. Surjit Kumar, Senior Scientific Officer (S)/DNA Forensic Science Laboratory (H) Madhuban, Karnal Parcel 8 bearing seal impression 3-AB RFSL SERO GGN: One sealed yellow envelope labelled as 21/RFSLGGM/2106021073, B-272/21, BH/S-113/21. 8) One cut & dirty blue Pyjami marked as item No.8	187-188

		RESULT OF EXAMINATION: 2) The item No. 1A, 6, 7 & 8 yielded amplification of DNA whose genotype is Male i.e. XY. 4) DNA profile of item No.1A & 8 amplify mix profile in Autosomal STR. 6) The Y-DNA profile obtained from item Nos.1A, 6 & 8 is compared with Y-DNA profile of item No.7. 7) The Y-allelic pattern of item Nos.1A, 6 & 8 matches with the Y-allelic pattern of item No.7. CONCLUSION: The Y-STR analysis indicates that: DNA profile of stains on source of item No.1A (Cloth piece); Source of item No.6 (Underwear) & Source of item No.8 (Pyjama) is matching with the DNA profile obtained from blood sample of accused (Source of item No.7).	
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82. A perusal of the above indicates that the laboratories found the seals intact. Thus, all the links in the chain of custody are complete.

83. Additionally, the DNA results are admissible in evidence, and the following judicial precedents shall be relevant.

84. In *Mukesh and Anr. v. State for NCT of Delhi & Ors.*, [2017] 6 S.C.R. 1, pg. 23; 2017 INSC 448, May 05, 2017, a three-Judge Bench of the Hon’ble Supreme Court holds,

[11.1] DNA technology as a part of Forensic Science and scientific discipline not only provides guidance to investigation but also supplies the Court accrued information about the tending features of identification of criminals. The recent advancement in modern biological research has regularized Forensic Science resulting in radical help in the administration of justice. In our country also like several other developed and developing countries, DNA evidence is being increasingly relied upon by courts. After the amendment in the Criminal Procedure Code by the insertion of Section 53A by Act 25 of 2005, DNA profiling has now become a part of the statutory scheme. Section 53A relates to the examination of a person accused of rape by a medical practitioner. Similarly, under Section 164A inserted by Act 25 of 2005, for medical examination of the victim of rape, the description of material taken from the person of the woman for DNA profiling is must.

85. In *Pattu Rajan v. State of Rajasthan*, [2019] 5 SCR 535; 2019-INSC-420, Mar 29, 2019, a three-Judge bench of the Hon’ble Supreme Court holds,

[31]. ...One cannot lose sight of the fact that DNA evidence is also in the nature of opinion evidence as envisaged in Section 45 of the Indian Evidence Act. Undoubtedly, an expert giving evidence before the Court

plays a crucial role, especially since the entire purpose and object of opinion evidence is to aid the Court in forming its opinion on questions concerning foreign law, science, art, etc., on which the Court might not have the technical expertise to form an opinion on its own. In criminal cases, such questions may pertain to aspects such as ballistics, fingerprint matching, handwriting comparison, and even DNA testing or superimposition techniques, as seen in the instant case.

86. A comprehensive analysis of the entire ocular evidence and the doctors' statements clearly establishes the credibility of the evidence led by the prosecution that the accused Anand Singh had been last seen by PW8 on May 24, 2021, at about 8:00 AM, with the victim Laadli, when he had purchased two packets of biscuits from PW8 and then went along with the victim. After that, the victim was never seen by anyone, and only her dead body was recovered. The time gap between the search for the victim, which started around 3:00 PM, and the victim's disappearance at 8:00 AM when she was seen with the accused is so small that it is not a case where the victim would have gone somewhere else.

87. The statement of the accused under §313 CrPC was recorded and the DNA report was put to him, and the accused denied the entire evidence as incorrect.

88. In *Ajay Singh v. State of Maharashtra*, [2007] 7 SCR 983, pg. 990- 991; 2007-INSC-690, June 06, 2007, the Hon'ble Supreme Court holds,

[11]. The object of examination under this Section is to give the accused an opportunity to explain the case made against him. This statement can be taken into consideration in judging his innocence or guilt. Where there is an onus on the accused to discharge, it depends on the facts and circumstances of the case if such statement discharges the onus.

[12]. The word 'generally' in sub-section (l)(b) does not limit the nature of the questioning to one or more questions of a general nature relating to the case, but it means that the question should relate to the whole case generally and should also be limited to any particular part or parts of it. The question must be framed in such a way as to enable the accused to know what he is to explain, what are the circumstances which are against him and for which an explanation is needed. The whole object of the section is to afford the accused a fair and proper opportunity of explaining circumstances which appear against him and that the questions must be fair and must be couched in a form which an ignorant or illiterate person will be able to appreciate and understand. A conviction based on the accused's failure to explain what he was never asked to explain is bad in law. The whole object of enacting Section 313 of the Code was that the attention of the accused should be drawn to the specific points in the charge and in the evidence on which the prosecution claims that the case is made out against the accused so that he may be able to give such explanation as he desires to give.

[13]. The importance of observing faithfully and fairly the provisions of Section 313 of the Code cannot be too strongly stressed. It is not sufficient compliance to string together a long series of facts and ask the accused what he has to say about them. He must be questioned separately about each material substance which is intended to be used against him. The questionings must be fair and couched in a form which an ignorant or illiterate person will be able to appreciate and understand. Even when an accused is not illiterate, his mind is apt to be perturbed when he is facing a charge of murder. Fairness, therefore, requires that each material circumstance should be put simply and separately in a way that an illiterate mind, or one which is perturbed or confused, can readily appreciate and understand.

89. An analysis of the chain of custody, the scientific evidence, and the FSL report, [Ext PW31/1], duly put to the accused in question no. 14 under §313 CrPC, fully establishes the presence of Anand Singh's semen on the victim's cloth (Kurta), [MO/1], and on the victim's lower [MO/2], which further establishes beyond reasonable doubt that it was Anand Singh who committed the rape upon Laadli. Once the rape is established and the accused is connected through the evidence of last seen and the scientific evidence, the motive to kill is implied, and the burden shifts upon Anand Singh under §106 of the Indian Evidence Act, [§109 of BSA, 2023] and it would have been for Anand Singh to state that after he had committed rape upon Laadli, then at what time and at which place did he leave her in such an injured and fragile condition.

90. It shall be relevant to refer to §106 of the Indian Evidence Act, which reads as follows:

106. Burden of proving fact especially within knowledge. — When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

91. In *Dinesh Kumar v. The State of Haryana*, [2023] 4 SCR 220, pg. 236; 2023-INSC-493, May 04, 2023, the Hon'ble Supreme Court holds,

[13]. What has to be kept in mind is that Section 106 of the Act, only comes into play when the other facts have been established by the prosecution.

92. Given the above, an analysis of the relevant evidence which the prosecution has been able to prove beyond reasonable doubt points to only one view, i.e., the involvement of the accused Anand Singh and no one else and thus makes out a watertight case against the accused Anand Singh.

93. In *Hanumant v. The State of Madhya Pradesh*, [1952] 1 SCR 1091, pg. 1097: 1952-INSC-41, Sep 23, 1952, the Hon'ble Supreme Court holds,

It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of

guilt is to be drawn should in the first instance be fully established, and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused...

94. In *Sharad Birdhi Chand Sarda v. State of Maharashtra*, [1985] 1 SCR 88, pg. 162-164; 1984-INSC-121, Jul 17, 1984, where a bride was found dead in her bed after 4 months of her marriage, a three-Judge Bench of the Hon'ble Supreme Court holds,

[E-G]. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is *Hanumant v. The State of Madhya Pradesh* [(1952) SCR 1091]. This case has been uniformly followed and applied by this Court in a large number of later decisions uptodate, for instance, the cases of *Tufail (Alias) Simmi v. State of Uttar Pradesh* [(1969) 3 SCC 198] and *Ramgopal v. State of Maharashtra* [AIR 1972 SC 656]. It may be useful to extract what Mahajan, J. has laid down in *Hanumant's case (supra)*: "It isaccused."

[C-B]. 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 & Anr. v. State of Maharashtra* [(1973) 2 SCC 793] where the following 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,

(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.

These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence.

95. The prosecution's case rested on the accused's disclosure statement, which led to the recovery of the victim's body, the evidence of last seen, and the fact that the accused's DNA was found on the cloth with which the Laadli's dead body was found to have been tied from a tree trunk and the lower garment lying under her dead body.

96. The fact that accused Anand had committed a penetrative sexual assault with the victim is established by Laadli's Postmortem Report and is confirmed by the DNA evidence. The chain of custody stands proved, there is no gap in the link evidence, and all these relevant facts clearly establish that the human semen recovered from the victim's clothes matched with the blood sample of the accused. An analysis of the above points out that the prosecution has been able to connect the accused with the factum of rape and murder by the evidence of last-seen as well as the evidence of DNA, which are sufficient to hold him guilty for rape and murder of the girl child Laadli.

97. The evidence proved on the record establishes beyond reasonable doubt that the chain of circumstances is complete, concrete, and leads to the sole inference of Anand Singh's guilt beyond any reasonable doubt. Resultantly, the conviction of Anand Singh for the commission of the rape and murder of Laadli, punishable under §6 of the POCSO Act and §302 IPC, as well as under §§363 & 201 IPC is upheld.

98. The convict's counsel submits that, if this Court upholds the conviction, it is not a case for the death sentence and prays for commutation of the death sentence, referring to the accused's stand before the Sessions Court.

99. State's counsel submits that if this Court commutes the death sentence to life imprisonment, it must be clarified that the accused shall not be released until the end of his natural life to protect other girls from suffering the same fate.

100. Learned Amicus submits that although the investigation is not properly conducted, the accused cannot take advantage of such a defective investigation because this Court must also do justice to the accused, victim and her family, society, and the State.

101. Now, coming to the part of the death sentences imposed by the trial Court, the gravity of the offence and a balancing of whether the aggravation outweighed the mitigation are considered.

102. After analyzing the factual background of rape and murder of helpless Laadli by accused Anand Singh, there does not appear to be any mitigating factor.

103. Pursuant to the orders passed by this Court, State counsel has filed reply dated 20.02.2026 which contains psychological assessment of the convict and sociological report. As per the report received from the Medical Officer, District Jail, Faridabad, the convict's behaviour was normal. He maintained eye to eye contact and reaction time to question is normal and his average IQ is 95. The relevant portion reads as follows:

“No overt psychopathology present that can suggests problem in psychological, behavioral and mental health.”

104. The trial Court awarded the death sentence, holding that the case fell within the rarest of rare category and that the circumstances established the accused's grave act, leaving only one sentence, which was death sentence.

105. In Rajendra Pralhadrao Wasnik v. State of Maharashtra, [2018] 14 S.C.R. 585, pg617, 2018-INSC-1194, Dec 12, 2018, while commuting the death sentence awarded on the conviction for rape and murder of a girl-child aged 3 years, a three-Judge Bench of the Hon'ble Supreme Court holds,

[58]. The history of the convict, including recidivism cannot, by itself, be a ground for awarding the death sentence. This needs some clarity. There could be a situation where a convict has previously committed an offence and has been convicted and sentenced for that offence. Thereafter, the convict commits a second offence for which he is convicted and sentence is required to be awarded. This does not pose any legal challenge or difficulty. But, there could also be a situation where a convict has committed an offence and is under trial for that offence. During the pendency of the trial he commits a second offence for which he is convicted and in which sentence is required to be awarded.

106. In Ediga Anamma v. State of Andhra Pradesh, [1974] 3 S.C.R. 329, pg. 336, 338; 1974-INSC-27, Feb 11, 1974, the Hon'ble Supreme Court holds,

[336G–A]. “354(3) When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.”

The unmistakable shift in legislative emphasis is that life imprisonment for murder is the rule and capital sentence the exception to be resorted to for reasons to be stated.

[338C]. While deterrence through threat of death may still be a promising strategy in some frightful areas of murderous crime, to espouse a monolithic theory of its deterrent efficacy is unscientific and so we think it right to shift the emphasis, to accept composite factors of penal strategy and not to put all the punitive eggs in the 'hanging' basket but hopefully to try the humane mix.

[338D–E]. We assume that a better world is one without legal knifing of life, given propitious social changes. Even so, to sublimate savagery in individual or society is a long experiment in spiritual chemistry where moral values, socio-economic conditions and legislative judgment have a role. Judicial activism can only be a signpost, a weather vane, no more. We think the penal direction in this jurisprudential journey points to life prison normally, as against guillotine, gas chamber, electric chair, firing squad or hangmen's rope. 'Thou shalt not kill' is a slow commandment in law as in life, addressed to citizens as well as to States, in peace as in war. We make this survey to justify our general preference where s.302 keeps two options open and the question is of great moment.

[338E–A]. Let us crystallise the positive indicators against death sentence under Indian Law currently. Where the murderer is too young or too old, the clemency of penal justice helps him. Where the offender suffers from socio-economic, psychic or penal compulsions insufficient to attract a legal exception or to downgrade the crime into a lesser one, judicial commutation is permissible. Other general social pressures, warranting judicial notice, with an extenuating impact may, in special cases, induce the lesser penalty. Extraordinary features in the judicial process, such as that the death sentence has hung over the head of the culprit excruciatingly long, may persuade the court to be compassionate. Likewise, if others involved in the crime and similarly situated have received the benefit of life imprisonment or if the offence is only constructive, being under s. 302 read with s. 149, or again the accused has acted suddenly under another's instigation, without premeditation, perhaps the court may humanely opt for life, even like where a just cause or real suspicion of wifely infidelity pushed the criminal into the crime. On the other hand, the weapons used and the manner of their use, the horrendous features of the crime and hapless, helpless state of the victim, and the like, steal the heart of the law for a sterner sentence. We cannot obviously feed into a judicial computer all such situations since they are astrological imponderables in an imperfect and undulating society. A legal policy on life or death cannot be left for ad hoc mood or individual predilection and so we have sought to objectify to the extent possible, abandoning Retributive ruthlessness, amending the deterrent creed and accenting the trend against the extreme and irrevocable penalty of putting out life.

107. In *Bachan Singh etc. etc. v. State of Punjab, etc.* [1983] 1SCR 145, pg229, 237; 1980-INSC-120, May 09, 1980/Aug 16, 1982, the Constitutional Bench of the Hon'ble Supreme Court while upholding the Constitutional validity of the Capital Sentence, in a reference to

the Constitution Bench regarding the constitutional validity of death penalty for murder provided in § 302, Penal Code, and the sentencing procedure embodied in sub-§ (3) of § 354 of the Code of Criminal Procedure, 1973, holds,

[A-C]. Section 354(3) of the Code of Criminal Procedure, 1973, marks a significant shift in the legislative policy underlying the Code of 1898, as in force immediately before Apr. 1, 1974, according to which both the alternative sentences of death or imprisonment for life provided for murder and for certain other capital offences under the Penal Code, were normal sentences. Now, according to this changed legislative policy which is patent on the face of Section 354(3), the normal punishment for murder and six other capital offences under the Penal Code, is imprisonment for life (or imprisonment for a term of years) and death penalty is an exception.

[F]. In the context, we may also notice Section 235(2) of the Code of 1973, because it makes not only explicit, what according to the decision in *Jagmohan's* case was implicit in the scheme of the Code, but also bifurcates the trial by providing for two hearings, one at the pre-conviction stage and another at the pre-sentence stage.

Pg237. [C-E]. Now, Section 235(2) provides for a bifurcated trial and specifically gives the accused person a right of pre-sentence hearing, at which stage, he can bring on record material or evidence, which may not be strictly relevant to or connected with the particular crime under inquiry, but nevertheless, have, consistently with the policy underlined in Section 354(3), a bearing on the choice of sentence. The present legislative policy discernible from Section 235(2) read with Section 354(3) is that in fixing the degree of punishment or making the choice of sentence for various offences, including one under Section 302, Penal Code, the Court should not confine its consideration "principally" or *merely* to the circumstances connected with the particular *crime*, *but also* give due consideration to the circumstances of the *criminal*.

108. In *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, CrA No. 1478-2005, pg. 35- 36, May 13, 2009, the Hon'ble Supreme Court holds,

Rarest of rare dictum, as discussed above, hints at this difference between death punishment and the alternative punishment of life imprisonment. The relevant question here would be to determine whether life imprisonment as a punishment will be pointless and completely devoid of reason in the facts and circumstances of the case? As discussed above, life imprisonment can be said to be completely futile, only when the sentencing aim of reformation can be said to be unachievable. Therefore, for satisfying the second exception to the *rarest of rare* doctrine, the court will have to provide clear evidence as to why the convict is not fit for any kind of reformatory and rehabilitation scheme. This analysis can only be done with rigor when the court focuses on the circumstances relating to the criminal, along with other circumstances. This is not an easy conclusion to be deciphered, but Bachan Singh

(supra) {[1983] 1SCR 145} sets the bar very high by introduction of *Rarest of rare doctrine*.

109. In Machhi Singh and others v. State of Punjab, [1983] 3 SCR 413, pg. 430- 431; 1983-INSC-78, Jul 20, 1983, a three-Judge Bench of the Hon'ble Supreme Court holds,

[H-D]. 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 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 to 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 the death penalty irrespective of their personal opinion as regards desirability or otherwise of retaining the death penalty...

110. In Mohinder Singh v. State of Punjab, [2013] 3 SCR 90, pg. 108, 2013-INSC 61, Jan 28, 2013, the Hon'ble Supreme Court holds,

[20E-F]. It is well settled law that awarding of life sentence is a rule and death is an exception. The application of the "rarest of rare" case principle is dependent upon and differs from case to case. However, the principles laid down and reiterated in various decisions of this Court show that in a deliberately planned crime, executed meticulously in a diabolic manner, exhibiting inhuman conduct in a ghastly manner, touching the conscience of everyone and thereby disturbing the moral fiber of the society, would call for imposition of capital punishment in order to ensure that it acts as a deterrent.

111. In Shankar Kisanrao Khade v. State of Maharashtra, [2013] 6 SCR 949, pg. 997; 2013-INSC-281, Apr 25, 2013, the Hon'ble Supreme Court, while commuting the death sentence of a middle-aged man to life [End of Natural Life under S. 376AB], awarded on the conviction for continuous rape and murder of a girl child aged 11, with moderate intellectual disability, holds,

[28]. Aggravating Circumstances as pointed out above, of course, are not exhaustive so also the Mitigating Circumstances. In my considered view that the tests that we have to apply, while awarding death sentence, are "crime test", "criminal test" and the R-R Test and not "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 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 minor girls intellectually challenged, suffering from physical disability, old and infirm women with those disabilities etc. Examples are only illustrative and not exhaustive. 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.

112. In *Mofil Khan and Anr. v. The State of Jharkhand*, R.P. (CrI.) No. 641 of 2015, in CrI.A. No. 1795 of 2009, *pg. 13*, Nov 26, 2021, a three-Judge Bench of the Hon’ble Supreme Court holds,

[10]. It is well-settled law that the possibility of reformation and rehabilitation of the convict is an important factor which has to be taken into account as a mitigating circumstance before sentencing him to death...

113. In *Sundar @Sundarrajan v. State by Inspector of Police*, [2023] 5 S.C.R. 1016, *pg. 1064*; 2023-INSC-264, Mar 21, 2023, a three-Judge Bench of the Hon’ble Supreme Court holds,

[89]‘rarest of rare’ doctrine requires that the death sentence not be imposed only by taking into account the grave nature of crime but only if there is no possibility of reformation in a criminal.

114. In *Vasanta Sampat Dupare v UOI and Ors.*, W.P. (Cr.) no. 371-2023, *pg. 1*, 2025-INSC-1043, Aug 25, 2025, a three-Judge Bench of the Hon’ble Supreme Court holds,

[1]. The majesty of our Constitution lies not in the might of the State but in its restraint. When the Court contemplates the ultimate punishment, i.e. the Capital Punishment, it enters a domain where justice must be tempered by conscience and guided by the unwavering promises of equality, dignity and fair procedure. A Constitution that proclaims liberty and dignity as its first commitments cannot permit the State to end a human life unless every safeguard of fairness has been honoured and every civilising impulse of the law has been heard. The question is never only what penalty a crime might merit, it is first whether the machinery of the Republic has honoured every safeguard that makes punishment lawful in a constitutional democracy. In the narrow space between guilt and the gallows, a robust Constitution demands that we pause, look again, and ask whether the process itself has measured up to the high bar that humanity and the rule of law together set.

115. It appears that the subsequent act of murder was committed in the aftermath of panic to destroy the evidence of rape, rather than a premeditated act. Every life, whether of young or old, of rich or poor, of citizen or an alien, is equally precious and its loss is irreparable, and no one has the right to take it away except by following the due process of law with extreme care—Compulsive retribution by the State, without justifying due process of law, cannot immunize such acts, even when done in the name of the greater public good.¹⁵

PRECEDENTS WHERE SENTENCE WAS COMMUTED IN ALMOST IDENTICAL CASES:

116. In *Ravishankar @ Baba Vishwakarma v. The State of Madhya Pradesh*, [2019] 14 SCR 285, *pg. 310, 311*; 2019-INSC-1116, Oct 03, 2019, a three-judge bench of the Hon’ble Supreme Court holds,

Age of girl-child	13 years	Age of Man	Adult
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[61]. In the present case, there are some residual doubts in our mind. A crucial witness for constructing the last seen theory, P.W.5 is partly inconsistent in cross-examination and quickly jumps from one statement to the other. Two other witnesses, P.W.6 and P.W.7 had seen the appellant feeding biscuits to the deceased one year before the incident and their long delay in reporting the same fails to inspire confidence. The mother of the deceased has deposed that the wife and daughter of the appellant came to her house and demanded the return of the money which she had borrowed from them but failed to mention that she suspected the appellant of committing the crime initially. Ligation marks on the neck evidencing throttling were noted by P.W.20 and P.W.12 and in the postmortem report, but find no mention in the panchnama prepared by the police. Viscera samples sent for chemical testing were spoilt and hence remained unexamined. Although nails’ scrappings of the accused were collected, no report has been produced to show that DNA of the deceased was present. Another initial suspect, Baba alias Ashok Kaurav absconded during investigation, hence, gave rise to the possibility of involvement of more than one person. All these factors of course have no impact in formation of the chain of evidence and are wholly insufficient to create reasonable doubt to earn acquittal.

[62]. We are cognizant of the fact that use of such ‘residual doubt’ as a mitigating factor would effectively raise the standard of proof for imposing the death sentence, the benefit of which would be availed of not by the innocent only. However, it would be a misconception to make a cost-benefit comparison between cost to society owing to acquittal of one guilty versus loss of life of a perceived innocent. This is because the alternative to death does not necessarily imply setting the convict free.

[63]. As noted by the United States Supreme Court in *Herrera v. Collins*, [506 U.S. 390 (1993)] “*it is an unalterable fact that our judicial system, like the human beings who administer it, is fallible.*” However, death being irrevocable, there lies a greater degree of responsibility on the Court for an indepth scrutiny of the entire material on record. Still

¹⁵ Punjab and Haryana High Court, *State of Punjab v. Sonu Singh*, MRC-2-2025, para 31, Mar 19, 2026.

further, qualitatively, the penalty imposed by awarding death is much different than in incarceration, both for the convict and for the state. Hence, a corresponding distinction in requisite standards of proof by taking note of ‘residual doubt’ during sentencing would not be unwarranted.

[64]. We are thus of the considered view that the present case falls short of the ‘rarest of rare’ cases where the death sentence alone deserves to be awarded to the appellant. It appears to us in the light of all the cumulative circumstances that the cause of justice will be effectively served by invoking the concept of special sentencing theory as evolved by this Court in *Swamy Shraddananda*¹⁶ (*supra*) and approved in *Sriharan*¹⁷ case (*supra*).

[65]. For the reasons aforesaid, the appeal is allowed in part to the extent that the death penalty as awarded by the courts below is set aside and is substituted with the imprisonment for life with a direction that no remission shall be granted to the appellant and he shall remain in prison for the rest of his life.

117. In the following judicial precedents, where the age of the victim girl-child was under 12 years, the Hon’ble Supreme Court, although commuted the death sentence but imposed imprisonment for life, till the end of natural life.

118. In *Rameshbhai Chandubhai Rathod v. The State of Gujarat*, [2011] 1 SCR 829, pg. 835, Jan 24, 2011, a three-Judge Bench of the Hon’ble Supreme Court, while commuting the death sentence to the remainder of life, holds,

Age of girl	Studying in Class IV	Age of Man	27 Years
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[2]We notice that there is a very thin line on facts which separates the award of a capital sentence from a life sentence in the case of rape and murder of a young child by a young man and the subjective opinion of individual Judges as to the morality, efficacy or otherwise of a death sentence cannot entirely be ruled out. It is now well settled that as on today the broad principle is that the death sentence is to be awarded only in exceptional cases.

.....In arriving at its conclusion, the Court relied on similar observations made in the case of *Ramraj v. State of Chhattisgarh* [(2010) 1 SCC 573]. We are, therefore, of the opinion that the appellant herein ought to be awarded a similar sentence. We accordingly commute the death sentence awarded to him to life but direct that the life sentence must extend to the full life of the appellant but subject to any remission or commutation at the instance of the Government for good and sufficient reasons.

118A. In *Chhotelal v. State of M.P.*, July 14, 2011, [2011] 8 SCR 239, pg. 241; 2011-INSC-492, the Hon’ble Supreme Court holds,

¹⁶ *Swamy Shraddananda @ Murali Manohar Mishra v. State of Karnataka* (2008) 13 SCC 767: [2008] 11 SCR 93.

¹⁷ *Union of India v. Sriharan alias Murugan and others* (2016) 7 SCC 1: [2015] 14 SCR 613.

Age of girl-child	10 Years	Age of Man	Adult
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[4]. We, accordingly, dismiss the appeal but direct (in the light of the aforesaid observations) that the appellant would serve out the sentence of imprisonment upto the end of his life but this direction would be subject to any remissions which the Government may choose to give under the circumstances to the appellant...

118B. In *Amit v. State of Uttar Pradesh*, Feb 23, 2012, [2012] 1 SCR 1009, pg. 1022; 2012-INSC-100, the Hon’ble Supreme Court holds,

Age of girl-child	3 Years	Age of Man	28 years
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[12]. ...In the present case also, we find that when the appellant committed the offence he was a young person aged about 28 years only. There is no evidence to show that he had committed the offences of kidnapping, rape or murder on any earlier occasion. There is nothing on evidence to suggest that he is likely to repeat similar crimes in future. On the other hand, given a chance he may reform over a period of years. Hence, following the judgment of the three Judge Bench in *Rameshbhai Chandubhai Rathod (2) v. State of Gujarat* (supra) [(2011) 2 SCC 764], we convert the death sentence awarded to the appellant. to imprisonment for life and direct that the life sentence of the appellant will extend to his full life subject to any remission or commutation at the instance of the Government for good and sufficient reasons.

118C. In *Md. Mannan @ Abdul Mannan v. State of Bihar*, [2019] 8 SCR 266, pg. 295, 296; 2019 INSC 196, Feb 14, 2011, a three-Judge Bench of the Hon’ble Supreme Court holds,

Age of girl-child	8 Years	Age of Man	42-43 years
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[86]. It is also pertinent to note herein that the relevant Prison Rules also recognise the phenomenon of post-conviction mental illness and state that the execution of such persons shall be deferred, pending orders of the Government.¹⁸ In the light of the aforesaid considerations, we conclude that the mental health of the petitioner at the time of execution is a relevant mitigating factor which must be taken into consideration in the present case. As observed above, there are materials put forward now, in the form of medical opinion, which show that the petitioner is not mentally sound. For the reasons discussed above, we are of the view that it would not be appropriate and/or safe to affirm the death sentence awarded to the petitioner.

[89]. Even though life imprisonment means imprisonment for entire life, convicts are often granted reprieve and/or remission of sentence after imprisonment of not less than 14 years. In this case, considering the heinous, revolting, abhorrent and despicable nature of the crime committed by the petitioner, we feel that the petitioner should undergo imprisonment for life, till his natural death and no remission of sentence be granted to him.

¹⁸ Bihar Prisons Manual 2012, Rule 642.

118D. In *Rajendra Pralhadrao Wasnik v. State of Maharashtra*, [2018] 14 S.C.R. 585, pg. 594; 2018-INSC-1194, Dec 12, 2018, a three-Judge Bench of the Hon’ble Supreme Court holds,

Age of girl-child	3 Years	Age of Man	Adult
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- [1]. ‘Sentenced to death’ – these few words would have a chilling effect on anyone, including a hardened criminal. Our society demands such a sentence on grounds of its deterrent effect, although there is no conclusive study on its deterrent impact. Our society also demands death sentence as retribution for a ghastly crime having been committed, although again there is no conclusive study whether retribution by itself satisfies society. On the other hand, there are views that suggest that punishment for a crime must be looked at with a more humanitarian lens and the causes for driving a person to commit a heinous crime must be explored. There is also a view that it must be determined whether it is possible to reform, rehabilitate and socially reintegrate into society even a hardened criminal along with those representing the victims of the crime.
- [43]. At this stage, we must hark back to **Bachan Singh** and differentiate between possibility, probability and impossibility of reform and rehabilitation. **Bachan Singh** requires us to consider the probability of reform and rehabilitation and not its possibility or its impossibility.
- [45]. The law laid down by various decisions of this Court clearly and unequivocally mandates that the probability (not possibility or improbability or impossibility) that a convict can be reformed and rehabilitated in society must be seriously and earnestly considered by the courts before awarding the death sentence. This is one of the mandates of the "special reasons" requirement of Section 354(3) CrPC and ought not to be taken lightly since it involves snuffing out the life of a person. To effectuate this mandate, it is the obligation on the prosecution to prove to the court, through evidence, that the probability is that the convict cannot be reformed or rehabilitated. This can be achieved by bringing on record, *inter alia*, material about his conduct in jail, his conduct outside jail if he has been on bail for some time, medical evidence about his mental make-up, contact with his family and so on. Similarly, the convict can produce evidence on these issues as well.
- [46]. If an inquiry of this nature is to be conducted, as is mandated by the decisions of this Court, it is quite obvious that the period between the date of conviction and the date of awarding sentence would be quite prolonged to enable the parties to gather and lead evidence which could assist the Trial Court in taking an informed decision on the sentence. But, there is no hurry in this regard, since in any case the convict will be in custody for a fairly long time serving out at least a life sentence.
- [47]. Consideration of the reformation, rehabilitation and reintegration of the convict into society cannot be over-emphasised. Until **Bachan Singh**, the emphasis given by the courts was primarily on the nature of the crime, its brutality and severity. **Bachan Singh** placed the sentencing process into perspective and introduced the necessity of considering the reformation or rehabilitation of the convict. Despite the view expressed by the Constitution Bench, there have been several instances, some of which have been pointed out in Bariyar and in **Sangeet v. State of Haryana**

[(2013) 2 SCC 452], where there is a tendency to give primacy to the crime and consider the criminal in a somewhat secondary manner. As observed in *Sangeet* "In the sentencing process, both the crime and the criminal are equally important." Therefore, we should not forget that the criminal, however ruthless he might be, is nevertheless a human being and is entitled to a life of dignity notwithstanding his crime. Therefore, it is for the prosecution and the courts to determine whether such a person, notwithstanding his crime, can be reformed and rehabilitated. To obtain and analyse this information is certainly not an easy task but must nevertheless be undertaken. The process of rehabilitation is also not a simple one since it involves social re-integration of the convict into society. Of course, notwithstanding any information made available and its analysis by experts coupled with the evidence on record, there could be instances where the social re-integration of the convict may not be possible. If that should happen, the option of a long duration of imprisonment is permissible.

[80]. For all these reasons, we are of opinion that it would be more appropriate looking to the crimes committed by the appellant and the material on record including his overall personality and subsequent events, to commute the sentence of death awarded to the appellant but direct that he should not be released from custody for the rest of his normal life. We order accordingly.

118E. In *Dattatraya @ Datta Ambo Rokade v. The State of Maharashtra*, [2019] 11 SCR 295, pg. 340; 2019-INSC-247, Feb 21, 2019, a three-Judge Bench of the Hon’ble Supreme Court holds,

Age of girl-child	5 Years	Age of Man	Adult
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[144]. Even though life imprisonment means imprisonment for entire life, convicts are often granted reprieve and/or remission of sentence after imprisonment of not less than 14 years. In this case, considering the heinous, revolting, abhorrent and despicable nature of the crime committed by the appellant, we feel that the appellant should undergo imprisonment for life, till his natural death and no remission of sentence be granted to him.

[145]. For the above reasons, we are of the view that the present appeals are one of such cases where we would be justified in holding that confinement till natural life of the accused-appellant shall fulfil the requisite criteria of punishment considering the peculiar facts and circumstances of the present case. Accordingly, the death sentence awarded by the trial court is hereby modified to "life imprisonment" i.e., imprisonment for the natural life of the appellant herein. The appeals are allowed accordingly to the extent indicated above.

118F. In *Accused ‘X’ v. State of Maharashtra*, [2019] 6 S.C.R. 1, pg. 39; 2019-INSC-518, Apr 12, 2019, a three-Judge Bench of the Hon’ble Supreme Court, while commuting the death sentence for the rape and murder of two minor girls, who were raped, killed and their dead bodies thrown in a well, holds,

Age of girl-child	Students of Classes	Age of Man	Adult
Two girls	I and Class IV		

[73]. At the same time, we cannot lose sight of the fact that a sentence of life imprisonment *simpliciter* would be grossly inadequate in the instant case. Given the barbaric and brutal manner of commission of the crime, the gravity of the offence itself, the abuse of the victims’ trust by the Petitioner, and his tendency to commit such offences as is evident from his past conduct, it is extremely clear that the Petitioner poses such a grave threat to society that he cannot be allowed to roam free at any point whatsoever. In this view of the matter, we deem it fit to direct that the Petitioner shall remain in prison for the remainder of his life...

118G. In the following judicial precedent of rape and death by asphyxiating the girl, the Hon’ble Supreme Court commuted the death sentence to imprisonment for life.

119. In Akhtar v. State of U.P., MANU-SC-1008-1999, *pg.* 2; (1999) 6 SCC 60, Feb 02, 1999, the Hon’ble Supreme Court holds,

[3]. ...The medical evidence also indicates that the death is on account of asphyxia. In the circumstances we are of the considered opinion that the case in hand cannot be held to be one of the rarest of rare cases justifying the punishment of death. We, therefore, uphold the conviction of the appellant under Section 302, IPC, but looking to other mitigating circumstances, we commute the sentence of death to imprisonment of life.

120. In the following judicial precedents, where the age of the victim girl-child was under 12 years, the Hon’ble Supreme Court commuted the death sentence to imprisonment for life.

121. In Mohd. Chaman v. State (N.C.T. of Delhi), Crl.A. No. 68-69 of 1999, *pg.* 10, Dec 11, 2000, the Hon’ble Supreme Court holds,

Age of girl-child	1 year 6 months	Age of Man	30 years
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Coming to the case in hand, the crime committed is undoubtedly serious and heinous and the conduct of the appellant is reprehensible. It reveals a dirty and perverted mind of a human-being who has no control over his carnal desires. Then the question is: whether the case can be classified as of a 'rarest of rare category justifying the severest punishment of death. Testing the case on the touchstone of the guidelines laid down in Bachan Singh (*supra*), Machhi Singh (*supra*) and other decisions and balancing the aggravating and mitigating circumstances emerging from the evidence on record, we are not persuaded to accept that the case can be appropriately called one of the 'rarest of rare cases deserving death penalty. We find it difficult to hold that the appellant is such a dangerous person that to spare his life will endanger the community. We are also not satisfied that the circumstances of the crime are such that there is no alternative but to impose death sentence even after according maximum weightage to the mitigating circumstances in favour of the offender. It is our considered view that the case is one in which a humanist approach should be taken in the matter of awarding punishment. Accordingly, the capital sentence imposed against the appellant by the Courts below is set aside, instead the appellant shall suffer rigorous imprisonment for life.

Subject to the above modification of sentence, the appeals filed by the accused are dismissed.

122. In Raju v. State of Haryana, [2001] Supp. 3 SCR 409, pg. 414; 2001-INSC-247, May 02, 2001, the Hon’ble Supreme Court holds,

Age of girl-child	11 years	Age of Man	Adult
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[C – D]. There is nothing on record to indicate that the appellant was having any criminal record nor he can be said to be a grave danger to the society at large. In these circumstances, it would be difficult to hold that the case of the appellant would be rarest of rare case justifying imposition of death penalty.

We, therefore, uphold the conviction of the appellant under Section 302, but commute the sentence of death to imprisonment of life.

123. In Bantu @ Naresh Giri v. State of M.P., [2001] Supp. 4 SCR 298, pg. 301, 302; 2001-INSC- 518, Oct 17, 2001, the Hon’ble Supreme Court holds,

Age of girl-child	6 Years	Age of Man	Under 22 years
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[G-H]. In the present case, there is nothing on record to indicate that the appellant was having any criminal record nor it can be said that he will be a grave danger to the society at large. It is true that his act is a heinous and requires to be condemned but at the same time it cannot be said that it is rarest of the rare case where accused requires to be eliminated from the society. Hence, there is no justifiable reason to impose the death sentence.

[A-B]. In the result, we confirm the conviction of the appellant under Section 302 IPC but modify the sentence by commuting the sentence of death to an imprisonment for life. For the offence punishable under Section 376 IPC, he is sentenced to undergo rigorous imprisonment for 10 years. Both the sentences to run concurrently. The appeal is partly allowed accordingly.

124. In Amit @ Ammu v. State of Maharashtra, 2003 SUPP. (2) SCR 285, pg. 289; 2003-INSC-373, Aug 06, 2003, the Hon’ble Supreme Court holds,

Age of girl-child	11-12 years and student of VI standard	Age of Man	20 years
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[D-E]. The next question is of the sentence. Considering that the appellant is a young man, at the time of incident his age was about 20 years; he was a student; there is no record of any previous heinous crime and also there is no evidence that he will be a danger to the society, if the death penalty is not awarded. Though the offence committed by the appellant deserves serve condemnation and is a most heinous crime, but on cumulative facts and circumstances of the case, we do not think that the case falls in the category of rarest of the rare case. We hope that the appellant will learn a lesson and have opportunity to ponder over what he did during the period he undergoes the life sentence. Having regard to the totality of the circumstances, we modify the impugned judgment and instead of death

penalty, award life imprisonment to the appellant for offence under Section 302, IPC.

125. In *Surendra Pal Shivbalakpal v. State of Gujarat*, [2004] SUPP. 4 SCR 464, pg. 469; 2004-INSC-526, Sep 16, 2004, the Hon’ble Supreme Court holds,

Age of girl-child	Little Child-Accused carried her on shoulder	Age of Man	36 years
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[A-C]. The next question that arises for consideration is whether this is a 'rarest of rare case', we do not think that this is a 'rarest of rare case' in which death penalty should be imposed on the appellant. The appellant was aged 36 years at the time of the occurrence and there is no evidence that the appellant had involved in any other criminal case previously and the appellant was a migrant labour from U.P. and was living in impecunious circumstances and it cannot be said that he would be a menace to the society in future and no materials are placed before us to draw such a conclusion. We do not think that the death penalty was warranted in this case. We confirm conviction of the appellant on all the counts, but the sentence of death penalty imposed on him for the offence under Section 302 IPC is commuted to life imprisonment.

126. In *Bishnu Prasad Sinha v. State of Assam*, [2007] 1 SCR 916, pg. 945; 2007 INSC 42, Jan 16, 2007, the Hon’ble Supreme Court holds,

Age of girl-child	7-8 Years	Age of Men	Both were Adults
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[62]. There is another aspect of this matter which cannot be overlooked. Appellant No. 1 made a confession. He felt repentant not only while making the confessional statement before the Judicial Magistrate, but also before the learned Sessions Judge in his statement under Section 313 of the Code of Criminal Procedure.

[63]. It is, therefore, in our opinion, not a case where extreme death penalty should be imposed. We, therefore, are of the opinion that imposition of punishment of rigorous imprisonment for life shall meet the ends of justice. It is directed accordingly. Both the appellants, therefore, are, instead of being awarded death penalty, are sentenced to undergo rigorous imprisonment for life, but other part of sentence imposed by the learned Sessions Judge are maintained.

127. In *Purna Chandra Kusal v. State of Orissa*, Crl.A. No. 1228 of 2008, pg. 3, Jul 12, 2011, the Hon’ble Supreme Court holds,

Age of girl-child	5 years	Age of Man	30 Years
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[5]. We are, however, of the opinion that the death sentence in the present case was not called for. The appellant was a labourer living in a basti along side the railway line and was, at the time of the incident, about 30 years of age. We also see that the entire evidence is circumstantial in nature. Concededly, there is no inflexible rule that a death sentence cannot be awarded in a case resting on circumstantial evidence but courts are as a matter of prudence, hesitant in awarding this sentence, in such a situation. It is true that the crime was indeed a

heinous one as the victim was only five years of age and the daughter of P.W. 5 who was a neighbour of the appellant. On a cumulative assessment of the facts, we are of the opinion that the death sentence should be commuted into one for life.

128. In *Kalu Khan v. State of Rajasthan*, Crl.A. No. 1892-2014, pg. 29, Mar 10, 2015, a three-Judge Bench of the Hon’ble Supreme Court commuted the death sentence in murder, abduction, and rape of a girl child aged 4, holding as follows,

Age of girl-child	4 years	Age of Man	Adult
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[30]. ...We are of the opinion that the four main objectives which the State intends to achieve namely deterrence, prevention, retribution and reformation can be achieved by sentencing the appellant-accused for life.

129. In *Sunil v. State of Madhya Pradesh*, Crl.A. No. 39-40 of 2014, pg. 9, [(2017) 4 SCC 393], Apr 08, 2016, a three-Judge Bench of the Hon’ble Supreme Court holds,

Age of girl-child	4 years (Niece of Accused)	Age of Man	25 Years
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[9]. ...In the present case, one of the compelling/mitigating circumstance that must be acknowledged in favour of the accused-appellant is the young age at which he had committed the crime. The fact that the accused can be reformed and rehabilitated; the probability that the accused would not commit similar criminal acts; that the accused would not be a continuing threat to the society are the other circumstances which could not but have been ignored by the learned trial court and the High Court.

[10]. We have considered the matter in the light of the above. On such consideration we are of the view that in the present case, the ends of justice would be met if we commute the sentence of death into one of life imprisonment...

130. In *Vijay Raikwar v. State of Madhya Pradesh*, Crl.A. No. 1112 of 2015, pg. 6, Feb 05, 2019, a three-judge bench of the Hon’ble Supreme Court holds,

Age of girl-child	7 ½ years	Age of Man	19 years
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[7]. Now, so far as the request and the prayer made on behalf of the accused to commute the death sentence to life imprisonment is concerned, having heard the learned counsel appearing on behalf of the accused on the question of death sentence imposed by the learned Sessions Court, confirmed by the High Court and considering the totality and circumstances of the case and the decisions of this Court in the cases of *Bachan Singh* (supra) and *Shyam Singh* (supra), we are of the opinion that the present case does not fall within the category of ‘rarest of rare case’ warranting death penalty. We have considered each of the circumstance and the crime as well as the facts leading to the commission of the crime by the accused. Though, we acknowledge the gravity of the offence, we are unable to satisfy ourselves that this case would fall in the category of ‘rarest of rare case’ warranting the death sentence. The offence committed, undoubtedly, can be said to be brutal, but does not

warrant death sentence. It is required to be noted that the accused was not a previous convict or a professional killer. At the time of commission of offence, he was 19 years of age. His jail conduct also reported to be good. Considering the aforesaid mitigating circumstances and considering the aforesaid decisions of this Court, we think that it will be in the interest of justice to commute the death sentence to life imprisonment.

131. In the following judicial precedents, where the age of the victim girl-child was 14 years, the Hon’ble Supreme Court, although commuted the death sentence to imprisonment for life, with clarification that the convict must serve a minimum of 35 years in jail without remission.

132. In *Rajkumar v. State of M.P.*, [2014] 3 SCR 212, pg. 229; 2014-INSC-136, Feb 25, 2014, the victim used to address the accused as ‘Mama’, the victim’s parents called him to stay at their house because they had to go to irrigate the fields, and during the night he raped and murdered her, the Hon’ble Supreme Court holds,

Age of girl-child	14 years	Age of Man	32 years
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[19]. The extreme penalty of death need not be inflicted except in gravest cases of extreme culpability. Before opting for the death penalty the circumstances of the offender also require to be taken into consideration alongwith the circumstances of the crime for the reason that life imprisonment is the rule and death sentence is an exception. The penalty of death sentence may be warranted only in a case where the court comes to the conclusion that imposition of life imprisonment is totally inadequate having regard to the relevant circumstances of the crime. The balance sheet of aggravating and mitigating circumstances has to be drawn up and in doing so, the mitigating circumstances have to be accorded full weightage and a just balance has to be struck between the aggravating and mitigating circumstances before option is exercised.

[20]. A three-Judge Bench of this Court in *Swami Shraddananda @ Murali Manohar Mishra v. State of Karnataka*, AIR 2008 SC 3040, wherein considering the facts of the case, the Court set aside the sentence of death penalty and awarded life imprisonment, but further explained that in order to serve the ends of justice, the appellant therein would not be released from prison till the end of his life.

[21]. Thus, taking into consideration the aforesaid judgments, we are of the view that in spite of the fact that the appellant had committed a heinous crime and raped an innocent, helpless and defenceless minor girl who was in his custody, he is liable to be punished severely but it is not a case which falls within a category of rarest of rare cases. Hence, we set aside the death sentence and award life imprisonment. The appellant must serve a minimum of 35 years in jail without remission, before consideration of his case for pre-mature release. However, it would be subject to clemency power of the Executive.

133. In the following judicial precedents, where the age of the victim girl-child was under 12 years, the Hon’ble Supreme Court, although commuted the death sentence to

imprisonment for life, with clarification that the convict must serve a minimum of 30 years in jail without remission.

134. In *Neel Kumar v. State of Haryana*, [2012] 5 SCR 696, pg. 714; 2012-INSC-204, May 7, 2012, on the allegation against the appellant of rape and murder of his 4-year-old daughter, the Hon’ble Supreme Court holds,

Age of girl-child	4 years	Age of Man	Adult
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[27]. Thus, in the facts and circumstances of the case, we set aside the death sentence and award life imprisonment. The appellant must serve a minimum of 30 years in jail without remissions, before consideration of his case for pre-mature release.

135. In *Selvam v. State Thr. Insp. of Police*, CrI.A. No. 1287 of 2011, pg. 10, May 02, 2014, while commuting the death sentence for the rape and murder of a girl-child aged 9, a three-Judge Bench of the Hon’ble Supreme Court holds,

Age of girl-child	9 years	Age of Man	Adult
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[9]. ...As a result, we do not find any cogent reason to interfere so far as the findings of guilt recorded by the courts below are concerned. However, considering the facts and circumstances of the case the death sentence awarded by the courts below require to be converted into life imprisonment but taking note of the diabolic manner in which the offence had been committed against a child, it is desirable that the appellant should serve minimum sentence of 30 years in jail without remission, though subject to exercise of constitutional power for clemency.

136. In *Raju Jagdish Paswan v. The State of Maharashtra*, CrA Nos. 88-89 of 2019, pg. 10, Jan 17, 2019, the Hon’ble Supreme Court holds,

Age of girl-child	9 years Studying in Class IV	Age of Man	22 years
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- [9]. The Appellant dragged a girl of nine years into a sugarcane field, raped her and dumped her in a well. The cause of death according to the medical evidence was signs of recent sexual intercourse with death due to drowning. There is no doubt that the murder involves exceptional depravity which is one of the aggravating circumstances. The manner of commission of the crime is extremely brutal. However, we are of the considered opinion that the Appellant does not deserve the sentence of death in view of the following mitigating circumstances:
- a) On a thorough examination of the offence, we are unable to accept the prosecution version that the murder was committed in a pre-planned manner.
 - b) The Appellant was a young man aged 22 years at the time of commission of the offence.
 - c) There is no evidence produced by the prosecution that the Appellant has the propensity of committing further crimes, causing a continuing threat to the society.

d) The State did not bring on record any evidence to show that the Appellant cannot be reformed and rehabilitated.

[10]. In view of the above, we are unable to agree with the courts below that the sentence of death is appropriate in this case. Applying the guidelines laid down by this Court for sentencing an accused convicted of murder and being mindful that a death sentence can be imposed only when the alternative option is unquestionably foreclosed, we are of the opinion that this case does not fall within the rarest of rare cases.

[13]. Though we have already expressed our view that the Appellant does not deserve to be put to death, he is not entitled to be released on completion of 14 years while serving life imprisonment. The brutal sexual assault by the Appellant on the hapless victim of nine years and the grotesque murder of the girl compels us to hold that the release of the Appellant on completion of 14 years of imprisonment would not be in the interest of the society. Considering the gravity of the offence and the manner in which it was done, we are of the opinion that the Appellant deserves to be incarcerated for a period of 30 years....

137. In *Parsuram v. State of Madhya Pradesh*, CrI.A. No. 314-315 of 2013, pg. 9, Feb 19, 2019, commuting the death sentence of a boy aged 22, who had raped and murdered a minor girl, a three-Judge Bench of the Hon’ble Supreme Court holds,

Age of girl-child	Student	Age of Man	22 years
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[14]. Having regard to the totality of the facts and circumstances of the case, more particularly when the accused has taken advantage of his relationship with the family of the victim as a tutor, though we find that the instant case does not fall in the category of the “rarest of rare” cases deserving imposition of the death penalty, the interest of justice would be met if the appellant herein is sentenced to undergo imprisonment of 30 years (without any remission). Accordingly, we partly allow the appeals. While confirming the conviction, we modify the sentence imposed on the appellant from death to life imprisonment of an actual period of 30 years (without any remission).

138. In *Irappa Siddappa Murgannavar v. State of Karnataka*, [2021] 11 S.C.R. 51, pg. 73; 2021-INSC-707, Nov 08, 2021, a girl-child aged 5 years and 2 months was raped and killed by strangulation, and then her body was put in a gunny bag and disposed of in the stream; a three-Judge Bench of the Hon’ble Supreme Court holds,

Age of girl-child	5years and 2 months	Age of Man	23/25 years
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[30]. ...The appeals are, however, partly allowed by commuting the death sentence to that of life imprisonment with the stipulation that the appellant shall not be entitled to premature release/remission before undergoing actual imprisonment of 30 years for the offence under Section 302 of the Code and further the sentences awarded shall run concurrently and not consecutively.¹⁹

¹⁹ In view of the Constitutional Bench decision in *Union of India v. Sriharan alias Murugan and others*, (2016) 7 SCC 1, the above direction would not affect the constitutional power of the President or Governor under Article 72 or 161 of the Constitution of India.

139. In *Arvind @ Chhotu Thakur v. State of M.P.*, Crl.A. No. 12 of 2022, pg. 3, Jan 04, 2022, the Hon’ble Supreme Court holds,

Age of girl-child	10 years	Age of Man	Adult
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In the facts and circumstances of this case, the appellant is convicted for offences under Sections 376-A, 302, 363, 201 IPC and Section 6 of POCSO Act and is sentenced to imprisonment for a period of 30 years. He shall not be entitled to seek remission.

140. In *Pappu v. State of Uttar Pradesh*, [2022] 2 S.C.R. 13, pg. 100; 2022-INSC-164, Feb 09, 2022, the allegations in the matter were that the accused had enticed a seven-year-old girl to accompany him under the pretext of picking lychee fruits; then, he committed rape upon the child, caused her death, and dumped her body near a bridge on the riverbank, and commuting the death Sentence to 30 years of actual life imprisonment, a three-Judge bench of the Hon’ble Supreme Court holds,

Age of girl-child	7 years	Age of Man	33-34 years
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[45]. The appellant was about 33-34 years of age at the time of commission of crime in the year 2015. Looking to the overall facts and circumstances, in our view, it would be just and proper to award the punishment of imprisonment for life to the appellant for the offence under Section 302 IPC while providing for actual imprisonment for a minimum period of 30 years. Having regard to the circumstances of this case and other punishments awarded to the appellant, it is also just and proper to provide that all the substantive sentences shall run concurrently.

141. In *Bhaggi @Bhagirath @Naran v. The State of Maharashtra*, [2024] 2 S.C.R. 111, pg. 122; 2024-INSC-82, Feb 05, 2024, the Hon’ble Supreme Court holds,

Age of girl-child	7 years	Age of Man	40 years
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[21]. We further direct that the petitioner-convict shall not be released from jail before completion of actual sentence of 30 years, subject to the observation made in the matter of its computation, as mentioned above.

142. Although the faulty investigation and the distracted trial on a few dates would not have affected the outcome of the conviction, they are additional factors that might not justify the irreversible sentence of capital punishment. There must be a justification for the death sentence, and the quality of the evidence, investigation, and trial must leave no ‘Residual Doubt.’ All the attending factors must rule out any ‘Chance of Reformation,’ and thus make it fall in the ‘Rarest of Rare’ category. It is one of those rare cases where the line that separates the categories of the “Rarest of Rare” from “Rare” is on the razor’s edge. The biggest challenge before this Court is that when the death penalty is not imposed and when Executive policies permit early release, how do we save the girls from the perverts? The concern bigger than the rape upon a child was her murder, because she had been raped and,

if she had survived, would have named the accused who resided in the same area. Once implicated, the punishment for rape of a child is the same, if not more, than that of murder. Section 6 of POCSO Act and the judicial precedents on §302 IPC permit us to commute death to life till the end of natural life. However, we have to take a conscious decision by sending an underlying message that the irreparable of the two crimes was her murder, because if the accused had not strangled her to death, medical science might have saved her life, and no one can rule out this possibility; however, to ensure that this pervert is not a potential risk to the other girls, he must remain in prison till the sunset of his virility.

143. The trial Court sentenced the convict to DEATH on two counts, first for the offence of rape of a minor under §6 of POCSO Act, and second for the offence of murder punishable under §302 IPC. Regarding the murder sentence under §302 IPC, all the mitigating factors compel this Court to award the maximum possible incarceration, other than capital punishment, to avoid violating the accused's right to a sentence proportionate to what was awarded to other similarly placed convicts, as an alternative to a death sentence. Given the above, it shall be appropriate to commute the death sentences on both counts of murder and rape to life imprisonment, with the following clarifications.

144. For the offence of murder punishable under §302 IPC, the convict Anand is sentenced to imprisonment for life, with the stipulation that he shall not be released unless he has served 50 years of sentence, and the fine is enhanced to Rs. Fifty Lacs [INR 50,00,000/-], which on realization shall be paid as compensation to the victim after deduction as per the terms as has been mentioned in the latter part of this judgment. In default of payment of fine, the convict shall undergo further simple imprisonment for 500 days.

145. When calculating sentences for the rape of minor victims, punishable under §6 of the POCSO Act, 2012, the most significant factors include the victim's age, the nature of injuries, the degree of cruelty, and the number of assailants. We clarify that we are not discussing any scenario that depicts apparent *prima facie* consent but is statutory rape because, at the time of consent, the victim was a minor. We are also not discussing the rape of adult victims. We do not have any sentencing guidelines to guide us. Even the judicial precedents on proportionality do not shed sufficient light to help us avoid a crash. Clear guidelines are always better than impulse, and it is better to be logical than to vacillate intuitively. In the absence of distinct sentencing guidelines, the only process we can follow is the hydraulic force of the descending scale model, which would suggest the median hypothetically starts at the age of consent, with *minima* toward the age closest to the age of consent and *maxima* toward the lowest age. The younger the victim, the higher the sentence; the more the number of perpetrators, the higher the sentence. By following the process of the descending scale model for calculating the proportionate and just sentence

for rape, in a case of a minor victim, when the victim's age goes down, the sentence goes up,

146. In the present case, the victim is under seven years of age and falls within the bracket of six-to-seven years of age, and there was a single perpetrator. In such a situation, the proportionate sentence for rape punishable under §6 of POCSO Act should be 23 years of rigorous imprisonment, and the fine is enhanced to Rupees twenty-three lacs [INR 23,00,000/-], which on realization shall be paid as compensation to the victim after deduction as per the terms as has been mentioned in the later part of this judgment. In default of payment of fine, the convict shall undergo further simple imprisonment for 230 days.

147. As a result, the appeal is partly allowed; the conviction is upheld on all counts; however, the death sentence is commuted to the sentence and compensation as mentioned herein.

148. Given the above, the conviction of the appellant Anand Singh for all the charges is upheld, and the sentence shall stand modified to the following terms: -

- (i) The death sentence awarded under §302 IPC is commuted to Rigorous imprisonment for Life, with the clarification that Anand Singh shall not be released unless he has served a minimum actual sentence of fifty years (50 years), without counting remissions, and after that, he can be released, subject to the remissions earned during his incarceration, and the fine is enhanced to Rupees fifty lacs [INR 50,00,000/-], which on realization shall be paid as a compensation to the victim after deduction in terms and conditions as has been mentioned in the later part of this judgment. In default of payment of fine, the convict shall undergo further simple imprisonment for 500 days.**
- (ii) The death sentence awarded under §6 of POCSO Act is also commuted, and the convict is sentenced to suffer Rigorous imprisonment for twenty-three years (23 years), and the fine is enhanced to Rupees twenty-three lacs [INR 23,00,000/-], which on realization shall be paid as compensation to the victim after deduction in terms and conditions as has been mentioned in the later part of this judgment. In default of payment of fine, the convict shall undergo further simple imprisonment for 230 days.**

- (iii) Remaining sentences awarded by the trial Court under §§363 & 201 IPC, are upheld, however, sentence in default of payment of fine is reduced to simple imprisonment for 1 day for each default.
- (iv) All the substantive sentences shall run concurrently. Period already undergone from arrest in this FIR till the award of sentence shall be set off in terms of §428 CrPC [§468 BNSS].

149. In *Sharad Hiru Kolambe v. State of Maharashtra and others*, [2018] 11 SCR 720, pg. 736; 2018-INSC-852, Sep 20, 2018, the Hon’ble Supreme Court of India holds,

[15]. In the circumstances, we reject the submission regarding concurrent running of default sentences, as in our considered view default sentences, inter se, cannot be directed to run concurrently.

150. In light of the judicial precedents mentioned above, the sentences in default of fine shall run consecutively.

151. The trial Court shall order the destruction of all other case property in accordance with the rules, notifications, and office orders, if any, after six months from the pronouncement of this Judgment. If any SLP/Appeal/Review/Curative Petition is filed before the Hon’ble Supreme Court of India, then, as per its directions, if any, regarding the case property, and if no such directions are made, then after six months from the final order of the Hon’ble Supreme Court.

152. As an outcome, the conviction and sentence awarded by the trial Court to the Convict Anand Singh is modified and shall stand substituted as follows:

Substituted Sentence imposed upon the convict –Anand Singh			
SECTION	SENTENCE OF IMPRISONMENT	FINE IN INR	SENTENCE IN DEFAULT OF PAYMENT OF FINE
302 IPC	Rigorous imprisonment for Life, with the clarification that Anand Singh shall not be released unless he has served a minimum actual sentence of fifty years, without counting remissions; thereafter, he can be released, subject to the remissions earned during his incarceration.	INR 50,00,000/- Rs. Fifty Lacs	Simple Imprisonment for 500 days
6 of POC SO Act	Rigorous imprisonment for twenty-three years	INR 23,00,000/- Rs. Twenty-three Lacs	Simple Imprisonment for 230 days
363 IPC	RI for 07 years	INR 5000/-	Simple

			Imprisonment for 1day
201 IPC	RI for 07 years	INR 5000/-	Simple Imprisonment for 1 day

153. All the substantive sentences awarded to the appellant shall run concurrently.
154. The sentence shall include total custody till date, including remission if earned till the date of pronouncement of this judgment, as actual custody.
155. In case the prisoner Anand Singh suffers from any mental or health issues, then during that time, he may be kept out of prison in some other facility, subject to and in terms of the opinion of the Doctors and the Subject Specialists, and the period spent for this term shall be considered as if he had served his actual sentence.
156. The trial Court had awarded a compensation of Rs 30 lakhs in accordance with Section 9(3) of The Victim Compensation Scheme 2020, which, as per the trial Judge, provided for a minimum compensation of Rs. 15 Lacs and maximum of Rs. 30 lacs, and the trial Court awarded the maximum. However, since the State did not ask for reduction, it would be appropriate that whenever and whatever is recovered, beyond Rs 15 Lacs shall be refunded to the State up to the extent the compensation was released to the victim, including interim. To clarify, out of the compensation of Rs 30 Lacs awarded by the trial Court, the State shall pay compensation up to 15 lacs and the amount more than Rs 15 Lacs, if already paid by the State shall be refunded to the State from the amount of compensation recovered from the convict, and the balance amount shall be paid to the victim’s parents and siblings in equal shares, and the concerned Court shall take steps to disburse it after realization from the convict, and all the Authorities concerned shall fully cooperate in tracing the victim’s parents and siblings, so that the remaining compensation after deducting what was already paid and released to the victim’s family, can be distributed evenly to all the above mentioned family members who are surviving at the time of disbursement.
157. CRA-D-1055-2023, Anand Singh v. State of Haryana, is partly allowed on the terms mentioned above.
158. Murder Reference No. 6 of 2023 is dismissed because of the commutation of the death sentence to the sentence as mentioned above.
159. To comply with § 412 BNSS, 2023 [371 CrPC, 1973], the proper officer of the High Court shall, without delay, send either physically or through electronic means, a copy of the

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CRA-D-1055-2023

order, under the seal of the High Court and attested with their official signature, to the Court of Session.

160. Both matters stand closed on the terms set out in this verdict. All pending miscellaneous applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

July 08, 2026
Jyoti Sharma

Whether speaking/reasoned	YES
Whether reportable	YES