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**IN THE COURT OF SPECIAL JUDGE, (UNDER THE PROTECTION
OF CHILDREN FROM SEXUAL OFFENCES ACT), AT PUNE**

[Presided over by Smt. Kavita D. Shirbhate]

FORM NO. XXXII
[Title page of Judgment]

PART 'A'
[Para 44(i) of Chapter VI of Criminal Manual]

Special Case No. 48/2020
[CNR No. : MHPU01-003213-2020]

Exh.No. 81

<u>Crime No. 692/2023, Police Station, Haveli, Pune Rural</u>		
Prosecution	:-	The State of Maharashtra Through, Police Station Officer, Police Station, Haveli, Pune Rural.
Represented by	:-	Smt. A. V. Bhagat Learned Spl.PP. for the State.
Accused	:-	Satish @ Pintya Pandurng Balshankar Age- 45 yrs, Occ- Labour R/at- Nandedphata, Tal. Haveli, Dist. Pune.

Represented by	:-	Shri. K. A. Jiwani Advocate for accused.
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PART- 'B'

[Para 44(ii) of Chapter VI of Criminal Manual]

Date of offence	:-	23.11.2019
Date of FIR	:-	23.11.2019
Date of charge-sheet	:-	01.01.2020
Date of framing charges	:-	16.02.2021
Date of commencement of evidence	:-	12.01.2022
Date of evidence closed	:-	26.12.2025
Date of arguments	:-	02.01.2026
Date on which judgment is reserved	:-	--
Date of Judgment	:-	02.01.2026
Date of sentencing, if any	:-	--

Accused Details

Rank of the accused	Name of the accused	Date of Arrest	Date of release on bail	Offences charged with under sections	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during the trial for purpose of Section 428 of Cr.PC.
1.	Satish @ Pintya Pandurang Balshankar	23.11.2019	UTP	376(2)(n), 376(3) of IPC and 5(I)(n), 6 of POCSO Act	<u>Acquitted</u>	No	—

PART- 'C'

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

List of Prosecution / Defence / Court witnesses

[A] Prosecution Witness :-

Rank	Witness Name	Exh.No.	Nature of witness
1	'A'	17	Complainant
2	'B'	42	Victim
3	Dr. Deepak Pralhad Bade	49	Medical officer

4	Pravin Eknath Kamthe	57	Head master of school of victim
5	Nitin Laxman Nam	63	Investigating officer

[B] Defence Witness, if any :-

<u>Rank</u>	<u>Witness Name</u>	<u>Exh.No.</u>	<u>Nature of witness</u>
—	—	—	—

[C] Court Witness, if any :-

<u>Rank</u>	<u>Witness Name</u>	<u>Exh.No.</u>	<u>Nature of witness</u>
—	—	—	—

List of Prosecution / Defence / Court Exh.s

[A] Prosecution Exh.s :-

<u>Sr.No.</u>	<u>Description</u>	<u>Exh. Number</u>
1.	FIR	18
2.	Printed FIR	19
3.	Statement of complainant recorded under Section 164 of Cr.P.C.	20
4.	Birth certificate of victim	43
5.	Statement of victim recorded under Section 164 of Cr.P.C.	44
6.	Letter issued to medical officer for conducting medical examination of victim	50
7.	Consent letter	51
8.	Medico legal certificate of victim	52
9.	Anganwadi certificate and school admission form of victim	58, 59
10.	Verified copy of general register	60
11.	Arrest form	64

12.	Spot panchanama	65
13.	Letter sending victim for her medical examination	66
14.	Ossification test report of victim	67
15.	Bonafide certificate of victim	68
16.	Seizure panchanama of clothes of victim	69
17.	Seizure panchanama of clothes of victim	70
18.	Letter sent to Sassoon Hospital for medical check up of accused	71
19.	Medical certificate of accused	72
20.	Letter sent for recording evidence of victim and other witnesses under Section 164 of Cr.PC.	73
21.	Statement of two sisters of victim recorded under Section 164 of Cr.PC.	74, 75
22.	Letter sent for chemical analysis report	76
23.	Chemical analysis reports	77 to 79

Documents admitted by defence :-

<u>Sr.No.</u>	<u>Description</u>	<u>Exh. Number</u>
1.	—	—

[B] Defence Exh.s :-

<u>Sr.No.</u>	<u>Description</u>	<u>Exh. Number</u>
1.	—	—

[C] Court Exh.s :-

<u>Sr.No.</u>	<u>Description</u>	<u>Exh. Number</u>
1.	—	—

[D] Material Objects :-

<u>Sr.No.</u>	<u>Description</u>	<u>Article Number</u>
1.	School uniform of victim	A

J U D G M E N T

(Delivered on : 02/01/2026)

1. The accused is charged for the offence punishable under Sections 376(2)(n), 376(3) of the Indian Penal Code, 1860 and Section 5(l)(n) p/u/s 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

Brief facts of Prosecution case are as under :

2. Victim is 12 years old. Accused is her step father. The complainant is maternal cousin sister of victim. The complainant lodged report to police station on 23/11/2019 that, on 22/11/2019 her maternal cousin sister informed her that, victim aged about 12 years is having stomach pain and asked to take her to the hospital. Accordingly complainant had brought the victim in her house and made inquiry with her. Victim narrated that, the accused had removed her clothes on Thursday at about 08.00 p.m. and moved his hand on her chest. When she shouted accused had gagged her mouth by inserting cloth in her mouth and inserted his private part in her private part and licked her private part and threatened to kill her in case of disclosure of incident.

3. It is further contended that, complainant made phone call to the accused and called him in the house. He avoided to

return back to him. Then she informed to the husband of her maternal aunt and asked to bring the accused to home. When accused was brought at home and made inquiry with him about the incident, he avoided to talk anything. Accused told that whatever is done, it is done under the influence of liquor. Then they had brought the accused in police station and lodged the FIR against the accused. Offence punishable under Sections 376(2)(n), 376(3) of IPC and Section 5(l)(n) p/u/s 6 POCSO Act have been registered against the accused. Accused was arrested and then after the investigation, charge-sheet came to be filed in the Court.

4. My learned Predecessor has framed charge against the accused for the offence punishable under Sections 376(2)(n), 376(3) of the Indian Penal Code, 1860 and Section 5(l)(n) p/u/s 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 on 16/02/2021. The contents of charge were read over and explained to accused in vernacular language, to which accused pleaded not guilty and claimed to be tried.

5. I have recorded statement of accused under Section 313(1)(b) of the Cr.P.C. Defence of accused is of total denial. He has not shown willingness to examine him or defence witness.

6. On perusal of evidence and documents on record, following points arose for my determination and consideration and I have given my findings against each along with reasons stated below :

Sr.No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Whether Prosecution proves that, accused on 23/11/2019 at about 20.00 hours in the rented house of Ravi Dhotre situated at J.P. Nagar, Nandedphata, Tal. Haveli, Dist. Pune being relative of minor victim girl, committed rape on her repeatedly and thereby committed an offence punishable under Section 376(2)(n) of the Indian Penal Code, 1860?	 In negative.
2.	Whether Prosecution proves that, accused on aforesaid dates, time and place and during the course of same transaction, committed rape on minor victim girl, who was under the age of 16 years and thereby committed an offence punishable under Section 376(3) of the Indian Penal Code, 1860?	 In negative.
3.	Whether Prosecution proves that, accused on aforesaid dates, time and place and during the course of same transaction, committed penetrative sexual assault on minor victim girl more than once or repeatedly and thereby committed an offence defined under Section 5(l)(n) , punishable under Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012?	 In negative.
4.	What order ?	 As per final order.

REASONS

7. Heard the learned Special Public Prosecutor for State and the learned advocate for accused.

8. In order to establish the guilt of accused, Prosecution has examined in all **five** witnesses.

AS TO POINTS No. 1 TO 3 :

9. All points are interconnected with each other, therefore, in order to avoid repetition, they are discussed together.

10. PW1 is informant. She deposed before the court as per her contention of FIR. According to her, victim is her maternal cousin sister. On 22/11/2019 her cousin sister informed her that victim is suffering from stomach pain and asked her to take victim in the hospital. She had brought victim in her house and made inquiry what happened with her. At that time victim narrated that the accused had pressed her chest and removed her clothes and committed sexual relation with her. When she shouted, accused had gagged her mouth by inserting cloth in her mouth and threatened to kill her in case of disclosure of the incident. Then she had called the husband of her maternal aunt and asked him to bring the accused in his house. Accused was brought in the house. He admitted his guilt, then FIR was lodged at police station.

11. PW2 is victim, deposed before the court that accused is her step father. Her date of birth is 25/11/2006. School leaving certificate is produced on record at Exh.43. She further deposed that she along with accused, her mother and brother were residing together. Her mother was doing cooking work and her step father was doing labour work and their working timing was since 10.00 am to 05.00 pm.

12. Victim further deposed that at the time of incident she was in the house, she along with her sister was sleeping on the bed and accused and her brother were sleeping on the ground. Accused had moved his hand on her chest and inserted cloth in her mouth and threatened to beat her. Then she went to the house of her sister and narrated about the incident that accused had moved his hand on her chest. She further stated that, nothing was happened besides this. Then they went to police station and police had sent her to Sassoon Hospital. She narrated about the incident to medical officer that accused had moved his hand on her chest. PW2 further deposed that her statement under Section 164 of Cr.P.C. was recorded.

13. **PW3 Dr. Deepak Pralhad Bade**, Medical Officer deposed in his evidence that on 23/11/2029 victim aged about 12 years was brought by LPC B.No. 2710 of Haveli Police Station. He obtained consent of victim and her sister for medical check up. Then victim and her sister had stated history of the incident that,

“The victim is 12 years old, female. Accused is her step father, named as Satish Pandurang Balshankar, 45 years. The victim said that, last three months the accused done three times non consensual penetrative unprotective vaginal intercourse at home. The last intercourse done three days back. There is no history of any unnatural sexual intercourse. After that victim changed her clothes and taken bath. He threatened the victim that, if she told to anyone, he will kill her. On 23/11/2019 victim told to her sister about the incidence. Then sister filed the police complaint.”

PW3 further deposed that, in general physical examination there was no injury on her body. On genital examination, there

was multiple old healed hymenal tears present and on peri-anal there is no injury. He had taken samples of victim and handed over to police. Victim was indoor patient for one day. He examined the victim on 21/11/2029 and issued medical certificate.

14. **PW5 Nitin Laxman Nam** is investigating officer. According to him, he had investigated the said matter. He had arrested the accused and prepared arrest panchanama vide Exh.64. Victim was sent for medical check up. He had collected medical papers and bonafide certificate of victim. He had seized clothes of accused and victim. Victim and other witnesses were sent for recording statements under Section 164 of Cr.PC. After due investigation, there was sufficient evidence against the accused, therefore he filed charge-sheet against the accused.

15. In this case I have already discussed above that informant is maternal cousin sister of victim. Admittedly, mother of victim was residing with the accused and victim. However she had not lodged the report against the accused and not come forward to give evidence against the accused. The informant cousin sister of victim is hearsay witness and she lodged report against the accused.

16. Let us discuss the evidence of other prosecution witnesses. PW1 is informant and she is hearsay witness. Therefore I would like to discuss the evidence of victim first. According to her, on the day of incident accused had moved his hand on her chest and inserted cloth in her mouth and threatened to beat her. Then she informed about the incident to her sister, then FIR was

lodged. Victim in her examination-in-chief has not stated that the accused had inserted his private part in her private part. When the victim was not supporting to the prosecution story, one suggestion was given by the learned Spl.PP, then she stated that it had happened that accused had inserted his private part in her private part. She identified the accused shown on the video conferencing. In the cross examination she admitted that whatever she has stated in examination-in-chief, this incident did not take place with her. In the cross examination she admitted that after the alleged incident she had not gone to the house of her mother. She further stated that, her sister narrated her what has to state before the police and before Magistrate. She further admitted that, her sister told did not like the accused, therefore FIR had lodged against him.

17. I have gone through the statement of victim recorded under Section 164 of Cr.PC. She stated that, accused had removed her clothes, accused had moved his hand on her chest, committed sexual relation with her and licked her private part and then driven her out of the house. Then she went to the house of her sister.

18. PW3 medical officer stated that, there was evidence of vaginal penetration, however there was no evidence of fresh physical and genital injury at present. From this evidence it is crystal clear that, there was no fresh injury on the private part of victim. In the medical history victim and her sister had given history that, since last three months accused has committed non-consensual unprotected vaginal intercourse with victim at home

for three times. Last intercourse done prior to 3 days. This history or incident has not stated by the informant in the complaint and not stated by the victim in her examination-in-chief and her statement recorded under Section 161, 164 of Cr.P.C. There is inconsistency in the statements of victim and her sister and statement given to police and medical officer and Magistrate. In the cross examination, victim admitted that there was quarrel between her father and her cousin maternal sister. She further admitted that, accused is her step father. He was addicted with liquor and her elder sister and neighbour were fed up with addiction of liquor of accused. Her sister did not like the accused since the marriage of accused with her mother. She further admitted that, she had not narrated about the incident to her sister. She further stated that, her sister stated that we have to lodge report against the accused.

19. It is to be noted that, I have already discussed above that there is no consistency in the statement of the victim, who is material witness. On perusal of record it appears that, the victim is having elder sister and she is married. She is residing separately. Mother of victim got married with the accused and she started to reside with accused along with victim and her brother. Elder sister of victim was not agreed with the marriage of her mother with accused. The maternal cousin sister of victim informed another maternal cousin sister of victim. She came forward to lodge the complaint against the accused by showing the fact that incident took place on 21/11/2019. According to cousin sister of victim, victim narrated about the incident to her, however victim has not

stated this fact in her examination-in-chief. On the contrary, in the cross examination she admitted that she had not narrated about the incident to her till night of second day. There is no consistency statements and evidence of the prosecution witnesses. There is contradiction in the statement and medical history. Medical opinion is not supporting to the prosecution story as medical officer specifically sated that there is no fresh injury on the private part of victim.

20. So far as the age of victim is concerned, in FIR informant stated that victim was 12 years old. However her date of birth is not mentioned in FIR. Victim in her statement recorded under Section 164 of Cr.P.C. stated her date of birth. To prove the age of victim, prosecution has examined PW4 Pravin Eknath Kamthe. PW5 is investigating officer. He deposed in his examination-in-chief that, he has collected ossification test report of victim vide Exh.67 and bonafide certificate of victim vide Exh.68. Ossification test report is at Exh.67 and opinion is given by the doctor that on 25/11/2019 victim was more than 12 years old and less than 14 years old. To support this document prosecution has examined PW4 Pravin Kamthe, who is in-charge head-master of the school. According to him, in the year 2015 victim's admission was done in the school. The admission was given on the basis of Anganwadi certificate, in which victim's name, name of her mother and date of birth is mentioned. Her date of birth is 25/11/2006. Then they have taken entry in the school register. As per entry No. 1210, year 2009-2010, her date of birth is 25/11/2006.

21. That, in the cross examination head master admitted that, on the basis of Lasikaran form, entry used to be taken in the Anganwadi form. However he does not know on which basis date of birth is mentioned in Anganwadi form. From the evidence of PW4 head master it appears that, he does not know on what basis date of birth is mentioned in Anganwadi form on the basis of which admission was given. Prosecution has not examined source of date of birth. It appears that prosecution has produced ossification test report on record. It shows that victim was 14 years old. Therefore, I hold that prosecution has proved the fact that victim was 14 years old at the time of incident only on the basis of ossification test.

22. The learned advocate for accused submitted that, such type of incident did not take place and this fact is admitted by the victim in her cross examination. He further submitted that, Section 29 of POCSO Act has not been attracted in this matter as fundamental facts of the incident are not proved by the prosecution. I have already discussed above that, there is no consistency in the evidence of prosecution witnesses. Therefore, I hold that, prosecution witnesses are not reliable one. Medical papers are not supportive to the prosecution story. Therefore, in view of the above discussion I hold that, prosecution is miserably failed to prove the ingredients of Sections 376(2)(n), 376(3) of the Indian Penal Code, 1860 and Section 5(l)(n) p/u/s 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. Hence, I answer Points No.1 to 3 in '**negative**' and accordingly, I proceed to pass the following order.

ORDER

1. The accused **Satish @ Pintya Pandurang Balshankar** is hereby **acquitted** vide Section 235(1) of the Code of Criminal Procedure, 1973 of the offence punishable under Sections **376(2)(n), 376(3)** of the Indian Penal Code, 1860 and Section **5(l)(n) p/u/s 6** of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
2. The accused is in Jail since **23/11/2019**. The Superintendent of Jail, Yerwada Prison, Pune is directed to release the accused **Satish @ Pintya Pandurang Balshankar** forthwith, if not required in any other crime.
3. The accused is directed to furnish P.B. and S.B. of **Rs.50,000/-** (Rupees Fifty Thousand only) towards compliance of Section 437(A) of the Code of Criminal Procedure, 1973.
4. Property muddemal i.e. seized clothes of accused and victim being shown worthless, be destroyed after appeal period is over.
5. Inform to the jail authority accordingly.
6. Dictated and pronounced in open Court.
7. Special Case No. 48/2020 is disposed of accordingly.

Pune.
Date : 02/01/2026.

[**Smt. Kavita D. Shirbhate**]
Special Judge (Under POCSO Act) &
Additional Sessions Judge, Pune

Name of the Steno	:-	Shri. D. L. Gudde Stenographer (Grade-I)
Name of the Court	:-	Smt. Kavita D. Shirbhate Special Judge & District Judge- 11 & Additional Sessions Judge, Pune.
Date of Order	:-	02/01/2026
Order checked & signed by presiding officer on	:-	08/01/2026
Order uploaded on	:-	08/01/2026.