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FORM - A**Exh.A/60**

**IN THE COURT OF SPECIAL JUDGE (POCSO) AND
ADDITIONAL SESSIONS JUDGE, BHUJ- KACHCHH.**

Before Mr.J.A. Thakkar
Special Judge (POCSO)

Special (POCSO) Case No.02 of 2026

Details of FIR/Crime and Police Station

Police Station	:	Koday Police Station
Crime/FIR No.	:	Part -A C.R. No. 11205048250296/2025
Complainant	:	The State of Gujarat
Represented By	:	Mr.H.B.Jadeja, learned Sp. PP
Accused	:	Arvind Narkhan Dantaniya Age : 21 Yeas, Occupation:- Agricultral Labourer R/o. Village:- Faradi, Dantaniya Vas, Taluka:- Mandvi- Kachchh.
Defended By	:	Learned LADC Mr. S.R.Singh

FORM - B

Date of Offence	:	12.10.2025
Date of FIR	:	01.11.2025
Date of Charge-sheet	:	01.01.2026
Date of Framing of Charge	:	16.02.2026
Date of Commencement of evidence	:	06.03.2026
Date on which judgment is reserved	:	25.03.2026
Date of Judgment	:	01.01.2026
Date of the Sentencing Order, if any	:	-

DETAILS OF ACCUSED

Rank of the Accused	Name of the Accused	Date of Arrest	Date of Released on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention undergone during Trial for purpose of section 428 Cr.P.C.
A1	Arvind Narkhan Dantaniya	17.11.2025	21.01.2026	U/s. 137(2), 87, 64(2) (M) of BNS read with Section 3(a), 4, 5(1), 6 of POCSO Act, 2012	Acquitted	-----	02 months 04 days

FORM – C**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**

A. Prosecution Witnesses:			
RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	EXHIBIT
PW-1	Father of Victim	Complainant	18
PW-2	Mother of victim	Mother of Victim	20
PW-3	Victim	Victim	21
PW-4	Dr. Dharaben Dineshbhai Trivedi	Medical Witness	37
PW-5	Dr. Y. A. Khatri	Medical Witness	40
PW-6	Shantilal G. Maheshwari	Police Witness	45
PW-7	Bhupendra P. Kharadi	Police Witness (Investigating Officer)	49
B. Defence Witnesses, if any:			
RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	
NIL			
C. Court Witnesses, if any:			
RAN K	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)	
NIL			

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution Exhibits:		
Sr. No.	Exhibit Number	Description
1	Ex.19	Complaint
2	Ex.22	statement of the victim u/s. 183 of BNSS
3	Ex.23,27, 29	Panchanama of place of offence
4	Ex.24	Vehicle recovered panchnama
5	Ex.25	Clothes worn by the victim at the time of incident recovered panchnama
6	Ex.26	Arrest Panchnama
7	Ex.28	Medical samples recovered panchnama
8	Ex.30	Letter to M.O. for conducting medical examination regarding health of accused and giving certificate.
9	Ex.31	Letter to M.O. for medical examination of the accused
10	Ex.32	Medical Examination Report of accused.
11	Ex.33	Letter issued by M.O. regarding collection of medical sample of accused
12	Ex.38	Medical Examination Report of victim
13	Ex.39	Medical Case Papers of victim
14	Ex.41	Letter to M.O. for conducting Medical Examination of victim
15	Ex.42	Letter issued by M.O. regarding collection of medical sample of victim
16	Ex.46	FIR
17	Ex.50	Spot Examination Report issued by DFS
18	Ex.51	Letter to Principal for issuing L.C. of victim
19	Ex.52	School Leaving Certificate of victim
20	Ex.53	Letter to FSL for examination of Muddamal
21	Ex.54	Dispatch Note of Muddamal to FSL department for

		analysis
22	Ex.55	Acknowledgment of FSL regarding receipt of Muddamal
23	Ex.56	Forwarding letter regarding examination of muddamal issued by FSL
24	Ex.57	Biological and Serological Report

A. Defence Exhibits, if any:		
Sr. No.	Exhibit Number	Description
NIL		

B. Court Exhibits, if any:		
Sr. No.	Exhibit Number	Description
NIL		

: J U D G M E N T :

- 1] The accused namely Arvind Narkhan Dantaniya stands charged for the offences punishable under Sections 137(2), 87, 64(2)(M) of Bharatiya Nyay Sanhita (hereinafter referred as “BNS”) read with Sections 3(a), 4, 5(1), 6 of the Protection of Children from Sexual Offence Act, 2012 (hereinafter referred as “POCSO Act”) for kidnapping the victim aged below 18 years from her lawful guardianship; committing rape upon her repeatedly; and committing aggravated penetrative sexual assault on the victim.
- 2] In case of *Nipun Saxena Vs. Union of India, 2019(2) SCC 704 and Bhupinder Sharma Vs. State of U.P. (2008) 8 SCC 551*, it has been held by the Hon’ble Supreme Court that keeping in view of the social object of preventing social victimization and ostracism of the victim of a sexual offence for which Section 228-A has been enacted, it would be appropriate that in the judgments, the name of the victim should be indicated. Thus, in view of the above provisions

and Section 228A of IPC, disclosure of identity of the victim is not made.

- 3] The case of prosecution, in brief, is that on 12.10.2025 , the accused abducted the minor victim aged 16 Years, 05 months from the legal guardianship of her guardian, by luring her to get marry with her and took her to different places and had forcefully sexual intercourse with the victim frequently against her wish and thereby committed a serious offence of aggravated penetrative sexual assault under Sections 137(2), 87, 64(2)(M) of Bharatiya Nyay Sanhita (In short "BNS") read with Sections 3(a), 4, 5(1), 6 of the POCSO Act.
- 4] After filing of the charge-sheet and on appearing of the accused, it is assured that the copies of police papers have been given to him. Thereafter, charge was framed against the accused for the offence punishable under Sections 137(2), 87, 64(2)(M) of BNS read with Sections 3(a), 4, 5(1), 6 of the POCSO Act. The plea of the accused was recorded to which the accused pleaded not guilty and claimed for trial.
- 5] The prosecution, thereafter, led the evidence and after leading evidence, submitted a closing pursis. Thereafter, further statement of accused was recorded. The accused has denied the charges leveled against him and further stated that he is innocent person and has been falsely implicated in this case.
- 6] Heard learned PP Mr.H.B.Jadeja for the State and learned LADC Mr. S.R.Singh for the accused at length.
- 7] Upon giving careful consideration upon rival contentions, oral as well as documentary evidence on record, the following points arise for determination of this case:

:: POINTS FOR DETERMINATION ::

- (1) Whether the prosecution proves beyond reasonable doubt that the victim was minor at the time of incidence?
- (2) Whether the prosecution proves beyond reasonable doubt that on 12.10.2025 at about 02:00 hrs. in the late night, the accused abducted the minor victim aged 16 Years, 05 months from the legal guardianship of her guardian, by luring her to get marry with her and took her to different places and had forcefully sexual intercourse with the victim frequently against her wish and thereby committed a serious offence of aggravated penetrative sexual assault under Sections 137(2), 87, 64(2)(M) of Bharatiya Nyay Sanhita (In short "BNS") read with Sections 3(a), 4, 5(1), 6 of the POCSO Act ?
- (3) What order?

8] My answers to the above points are as under:

- (1) In the negative
- (2) In the negative
- (3) As per final order.

Submissions on behalf of the State:

- 9] Learned PP Mr.H.B.Jadeja for the State has vehemently submitted that the accused has committed the offences against the victim who was aged about 16-17 years at the time of incident. He has then drawn the attention of this Court to the copy of school leaving certificate of the victim at Exh.-52 and has submitted that if this document is seen, the birth date of the victim is 11.05.2009. He has further submitted that as per the complaint, the incident was

happened on 12.10.2025. Therefore, it can be said that the victim was minor at the time of incident. He has further submitted that on 12.10.2025, the accused abducted the minor victim from the legal guardianship of her guardian, by luring her to get marry with her and with intention to have sexual relations with her, took her to different places and had sexual intercourse with the victim frequently and thereby the accused committed a serious offence of aggravated penetrative sexual. The learned PP has further submitted that the medical certificates issued by the doctor as well as the case papers of the victim produced on record indicate that the victim was subjected to sexual assault at the hand of the accused. Ld. P.P. has further argued that the medical witnesses as well as police witnesses have supported the prosecution's case. Thus, the prosecution proved beyond reasonable doubt that the accused has committed a serious offence against the victim. He has, therefore submitted that the accused should be held guilty for the offences for which he is charged.

Submissions on behalf of the accused:

- 10] Learned LADC Mr. S.R.Singh for the accused has vehemently submitted that the accused is an innocent who has been falsely implicated in this case. He has further submitted that there is no iota of evidence of the commission of the alleged offences by the accused. He has further submitted that if the complaint as well as the depositions of the victim and parents of victim are seen and read together, then they clearly proves that the prosecution has miserably failed to prove commission of any of the offences by the accused. He has also submitted that if the entire evidence of

the prosecution is read, there is no proof on record to show that the accused has committed alleged offences.

- 10.1 He has also drawn attention of this Court to the depositions of the material witness i.e. victim and her parents and submitted that there is material contradiction in the story put forward by the complainant in the complaint and thus, the prosecution story fails on this very important aspect. He has further submitted that the statement of victim under Section 183 of BNSS was recorded after considerable period and thus though it has been exhibited, their contentions are not proved by the prosecution. He has further submitted that if the depositions of other material witnesses are seen, it does not support the case of the prosecution. He has, therefore, submitted the prosecution fails to prove the charges against the accused beyond reasonable doubt and hence, has submitted that the accused be acquitted.

: **REASONS** :

Point No.(1)

- 11] It is to be stated that necessarily the Court trying the offences under the POCSO Act is required to give a finding in regard to age of the victim as the provisions of the POCSO Act can be applied only if the victim is a child. Section 2(d) of the POCSO Act defines the child as a person below the age of 18 years. The complainant in the complaint at Ex.19 stated that the victim was aged about 16 Years, 05 months and 20 days at the time of incident. Now, on perusal of the School Leaving Certificate of victim produced at Exh.-52, wherein the date of birth of the victim is mentioned as 11.05.2009. The said birth certificate is

referred in evidence of I.O. Mr.Bhupendrabhai P. Kharadi at Exh.-49 But it is pertinent to note that the prosecution has not examined the author of said certificate to prove the age of victim. Further, prosecution has also not produced birth certificate of the victim. It is also pertinent to note that, the prosecution has not examined the authority or concerned department who maintained birth and death register according to law. Further, looking to the deposition of parents of victim at Exh.-18 and 20 respectively, they have stated in their deposition on 06.03.2026 that at present age of the victim is 19 years. Whereas, the alleged incident has happened on 12.10.2025. Even victim has stated in her deposition she do not know her date of birth. So, considering the deposition of different witnesses as discussed above, prosecution has failed to prove that the victim was minor at the time of incident. Looking to all these, it is reason to believe that, the prosecution has not succeeded to prove the certificate at Exh.-52 according to the provisions of Section 29 of the Bharatiya Sakshya Adhiniyam, 2023. Hence, looking to the deposition of the different witnesses as discussed above and documents produced on record, it is reason to believe that the prosecution has failed to establish that the victim was minor at the time of incident. Therefore, point no.1 is answered in the negative accordingly.

Points No.(2) and (3)

- 12] In order to prove the guilt of the accused in the offences under Sections 137(2), 87, 64(2)(M) of BNS read with Sections 3(a), 4, 5(1), 6 of the POCSO Act, the prosecution has examined 07 witnesses and tendered the documentary evidences.

- 13] First of all, the prosecution has examined **PW1 – complainant – father of the victim at Ex.18**. This witness has deposed before this Court that, he lives with his family and doing farming. Further, he has deposed that, his family contains, he himself, his wife, and among their children, there are three daughters and one son. Further, he has deposed that, his victim daughter is currently 19 years old and she has studied. Further, he has deposed that, they had hired Harisinh Murubha's farm in Faradi village for cultivation. Further, he has deposed that, the incident occurred approximately eight months ago from today. Further, he has deposed that, on the day of the incident, all their family members went to sleep after having dinner at night. When his wife and he woke up in the morning and checked where his victim daughter was sleeping, she was not present there. Therefore, he searched among his relatives and in the neighborhood, but she was not found. Further, he has deposed that, the accused is his family brother-in-law (shala), who also used to come to the farm occasionally for work. Further, he has deposed that, upon searching, he was also not found present, therefore, he got suspicious. So he filed a police complaint. Further, original complaint is shown to him, wherein he identified his signature and the same is exhibited vide Exh.-19. Further, he has deposed that, approximately twenty to twenty-five days after he filed the complaint, his victim daughter was found, therefore, When he questioned his victim daughter, she stated that as there were frequent quarrels with her mother regarding farm work and as his wife used to frequently scold her about farm work, which she did not like. Therefore, during the time of the incident, feeling very hurt and in a fit of rage, she went to her maternal cousin's house at Bhuj without telling any family

members and further she stated that no other incident occurred with her beyond this. Further, he has deposed that, since the accused is his family brother-in-law, he know him, Further, he identified the accused before the Court. Further, he has deposed that, it has never happened that the accused despite knowing his victim daughter to be a minor, by taking advantage of her innocence, luring her of marriage, made a friendship with her, came to their farm and had physical relations with his victim daughter in this farm at night, either with her consent or against her consent. Further, he has deposed that, it has never happened that the accused, despite knowing that his daughter was a minor, by taking advantage of her innocence, luring her with the promise of marriage, abducted her from their legal guardianship, took her to various places, kept her with him at those various locations, and had physical relations with his victim daughter at any time or any place, either with her consent or against her consent. Further, he has deposed that, it has never happened that the accused took his victim daughter to different locations and frequently had physical relations with her, either with her consent or against her consent and his victim daughter has ever informed him about such facts.

13.1 As this witness has not supported case of the prosecution, Ld. P.P. has declared this witness **hostile**. After declared this witness hostile, the Ld. P.P. with permission of this Court, cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution.

13.2 The present witness – father of the victim was cross-examined by the learned advocate for the accused. In his cross-examination, this witness has admitted that, as his victim daughter had a quarrel with her mother over the work of the farm, she went to her maternal cousin's house without

informing them. Further, he has admitted that, no incident happened to his victim daughter nor did his victim daughter tell them any fact that any incident happened to her. Further, he has admitted that, the police did not ask him any fact other than asking for his name and address, nor did he write to the police. Further, he has admitted that, the accused never did any misdeed to his victim daughter.

- 14] Thereafter, the prosecution has examined **PW2 – mother of the victim at Ex.20**. This witness has deposed before this Court that, she lives with her family and doing farming. Further, she has deposed that, her family consist her husband and among their children, there are three daughters and one son. Further, she has deposed that, her victim daughter is currently 19 years old and has studied. Further, she has deposed that, they had hired Harisinh Murubha's farm in Faradi village for cultivation. Further, she has deposed that, the incident occurred approximately eight months ago from today. Further, she has deposed that, on the day of the incident, all their family members went to sleep after having dinner at night. When she and her husband woke up in the morning and checked where her victim daughter was sleeping, she was not present there. Therefore, they searched among his relatives and in the neighborhood, but she was not found. Further, she has deposed that, the accused is her family brother, who also used to come to the farm occasionally for work. Further, she has deposed that, upon searching, he was also not found present, therefore, they got suspicious. So her husband filed a police complaint. Further, she has deposed that, police interrogated him and recorded her statement. Further, she has deposed that, her victim daughter was found approximately twenty

to twenty-five days after filing the complaint therefore, When she questioned her victim daughter, she stated that as there were frequent quarrels with her mother regarding farm work, she went to her maternal cousin's house at Bhuj without telling any family members and further her victim daughter stated that no other incident occurred with her beyond this. Further, she has deposed that, since the accused is his family brother, she know him, Further, she identified the accused before the Court. Further, she has deposed that, it has never happened that the accused despite knowing her victim daughter to be a minor, by taking advantage of her innocence, by luring her of marriage, developed a friendship with her, came to their farm and had physical relations with her victim daughter in this farm at night, either with her consent or against her consent. Further, she has deposed that, it has never happened that the accused, despite knowing that her victim daughter was a minor, by taking advantage of her innocence, luring her with the promise of marriage, abducted her from their legal guardianship and took her to various places, kept her with him at those various locations, and had physical relations with her victim daughter at any time or any place, either with her consent or against her consent. Further, she has deposed that, it has never happened that the accused took her victim daughter to different locations and frequently had physical relations with her, either with her consent or against her consent and her victim daughter has ever informed her about such facts.

- 14.1 As this witness has not supported case of the prosecution, Ld. P.P. has declared this witness **hostile**. After declared this witness hostile, the Ld. P.P. with permission of this Court, cross examined the witness in detail but the prosecution has

totally failed to bring anything important on record which helpful to the case of the prosecution.

14.2 The present witness – mother of the victim was cross-examined by the learned advocate for the accused. In her cross-examination, this witness has admitted that, as her victim daughter had a quarrel and verbal spat with her over the work of the farm, she went to her maternal cousin's house without informing them. Further, she has admitted that, no incident happened to her victim daughter nor did her victim daughter tell them any fact that any incident happened to her. Further, she has admitted that, the police did not ask her any fact other than asking for her name and address, nor did she write to the police. Further, she has admitted that, the accused never did any misdeed to her victim daughter.

15] Thereafter, The prosecution has examined the **PW3 - Victim** at **Exh.21**. In her deposition, the victim has deposed in examination-in-chief that, the incident was occurred about five months ago. Further, she has deposed that, at the time of the incident, as she had verbal spat and quarrel with her mother about farming work, one day as she got very angry and felt very upset, she went to her maternal uncle's house in Bhuj without informing anyone at home and stayed there for 20 to 25 days. Further, she has deposed that, as she was leaving home without informing anyone and she could not found to her family members and she did not inform her parents, her father filed a police complaint in anger.. Apart from this, no other incident has happened with her. Further, she has deposed that, when she went to her maternal uncle's house, while he asked why did she come here, she told him

that she had come there out of resentment due to a dispute with her mother over farm work and she had forbidden her uncle from telling her parents that she was at his house but thereafter as her anger subsided and she realized the reality of the situation, she had returned home by herself. Further, she has deposed that, after returning home, she told her parents real facts that as she used to have verbal spat and dispute with her mother about farming work and as her mother used to scold her repeatedly about farming work, she felt very upset and got angry, so she had gone to her maternal uncle's house without informing them and nothing had happened to her. Further, she has deposed that, it has not happened that, the accused by taking advantage of her naivety and making friendship with her and by luring her of marriage had ever made physical relations with her anywhere, either with her consent or against her consent. Further, she has deposed that, it has never happened that, the accused by abducting her from legal guardianship of their parents, took her to the different places and ever made physical relations with her either with her consent or against her consent. Further, she has deposed that, police has interrogated her. Further, she has deposed that, after the incident, police took her to the hospital for medical examination where also she told the doctor above stated facts. Further, she has deposed that, police has not seized any thing from her and if shown any, she would not be able to identify them. Further, she has deposed that, after that, the police took her to the Mandvi court where the magistrate interrogated her and while asking to write down about the incident, she wrote down the above facts to the Magistrate and after recording the statement, the magistrate got her

signature there. Further, she has identified her signature in the said statement and the said statement U/s. 183 of the BNSS is exhibited vide Exh.-22. Further, this witness has deposed that, if the accused, Arvind Narkhan Dataniya, is shown to her, she do not know him very closely, but he is her family maternal uncle and accordingly, the accused was shown through a TV screen from the place where he was seated to the room where the victim was seated in the Vulnerable Witness Deposition Room. Upon seeing the accused on the TV screen, the victim stated that she did not know this person very closely, but identified him as Arvind Narkhan Dataniya, who is her family maternal uncle. Further, she has deposed that, it has never happened that the accused despite knowing that she was a minor, by taking advantage of her innocence and luring her into marriage and by making friendship with her came in their farm at night and made physical relations with her in the farm either with her consent or against her consent. Further, this witness has deposed that, it has never happened that, the accused despite knowing that she was a minor, by taking advantage of her innocence and luring her into marriage abducted her from the legal guardianship of her parents and took her to different places and kept her with him in different places and made physical relations with her at any time or in any place either with her consent or against her consent. Further, she has deposed that, it has also never happened that, the accused has ever taken her to different places and has ever made physical relation with her repeatedly at any time, either with her consent or against her consent.

- 15.1 As this witness has not supported case of the prosecution, Ld. P.P. has declared this witness **hostile**. After declared this

witness hostile, the Ld. P.P. with permission of this Court, cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution.

15.2 The present witness – victim was cross-examined by the defence. In her cross-examination, this witness has admitted that, as she frequently had quarrels and disputes with her mother regarding farming work, she had left to her maternal uncle's house by herself without informing her family members due to her anger. She has further admitted that it has never happened that the accused ever committed any misdeed with her at any time, either with her consent or against her consent and she had ever informed her parents regarding the same. Further, she has admitted that, she had given the statement before the Magistrate as instructed by the police. Further she has admitted that, the police had only asked for her name and address, apart from which, she had not stated any facts to the police, nor had the police asked her anything.

16] Further, the prosecution has examined **PW-4 – Dr. Dharaben Dineshbhai Trivedi** at **Exh.37**. In her examination-in-chief, this witness has deposed that, on 17.11.2025, while she was on duty as a Gynecologist at Bhuj G.K. General Hospital, a victim was sent by Koday Police Station along with letter for medical examination. Further, she has deposed that, the victim was 16 years and 06 months old and she was brought by Lady Constable Vaishaliben B. Mankoliya. Further, she has deposed that, they started the physical examination of the victim at 10:38 a.m.. Further, she has deposed that, before conducting the physical examination of the victim, her consent was obtained for

which the thumb impression of the victim and her mother were obtained. Further, she has deposed that, the victim had a tattoo of the name 'Bhavna Aravind' in English on her left arm and a tattoo of 'Om' on the back of her right arm as identification marks on her body. Further, she has deposed that, when asked about the history of the incident, the victim recorded her history. Further, she has deposed that, the victim had taken a bath and changed clothes. Further, she has deposed that no external injury marks were found on the victim's body. Further, she has deposed that the victim's vagina was torn. Further, she has deposed that, during the physical examination of the victim, the following samples were taken. (1) Blood, (2) Nails, (3) Saliva, (4) Pubic Hair, (5) Vaginal Swab, (6) Para Urethral Swab, (7) Cervical Swab and (8) Axillary Hair samples were taken and the samples were sealed and sent to the Koday Police Station with a sample of the seal affixed in the forwarding letter. Further, she has deposed that, Dr. Yahya Khatri was present with her during the physical examination of the victim. Further, she has deposed that, based on the physical examination and sonography report of the victim, she was pregnant by five weeks and three days, and upon local examination, the hymen was found to be old ruptured. Further, this witness has referred and identified the documents produced at Exh. 38 and 39 in her deposition.

- 16.1 This witness was cross-examined by defence. In his cross-examination, this witness has denied that, they had recorded the history of the victim as per the police report. Further this witness has denied that they did not conduct any physical examination of the victim and they issued a false certificate at the behest of the police. Further this

witness has denied that they did not take any samples from the victim. Further, this witness has admitted that there were no signs of internal or external injuries on the victim. Further, this witness has admitted that, there were no signs of force on the body of the victim. Further, this witness has admitted that, the victim did not mention the name of the accused in the history given before them. Further, this witness has admitted that, there can be many reasons for a ruptured hymen. Further, this witness has admitted that, they did not obtain any identity proof of the victim. Further, this witness has denied that, she has stated false facts in the examination-in-chief and given false deposition on oath.

- 17] Further, the prosecution has examined **PW-5 – Dr. Yahya A. Khatri** at **Exh.40**. In his examination-in-chief, this witness has deposed that, on 17.11.2025, while he was on duty as a medical officer at Bhuj G.K. General Hospital, a victim was sent by Koday Police Station along with letter for medical examination. Further, he has deposed that, the victim was 16 years and 06 months old and she was brought by Lady Constable Vaishaliben B. Mankoliya. Further, he has deposed that, they started the physical examination of the victim at 10:38 a.m.. Further, he has deposed that, before conducting the physical examination of the victim, her consent was obtained for which the thumb impression of the victim and her mother were obtained. Further, he has deposed that, the victim had a tattoo of the name 'Bhavna Aravind' in English on her left arm and a tattoo of 'Om' on the back of her right arm as identification marks on her body. Further, he has deposed that, when asked about the history of the incident, the victim recorded her history. Further, he has deposed that, the victim had taken a bath and

changed clothes. Further, she has deposed that no external injury marks were found on the victim's body. Further, he has deposed that the victim's vagina was torn. Further, he has deposed that, during the physical examination of the victim, the following samples were taken. (1) Blood, (2) Nails, (3) Saliva, (4) Pubic Hair, (5) Vaginal Swab, (6) Para Urethral Swab, (7) Cervical Swab and (8) Axillary Hair samples were taken and the samples were sealed and sent to the Koday Police Station with a sample of the seal affixed in the forwarding letter. Further, he has deposed that, Gynecologist Dr. Dharaben Trivedi was present with him during the physical examination of the victim. Further, he has deposed that, based on the physical examination and sonography report of the victim, she was pregnant by five weeks and three days, and upon local examination, the hymen was found to be old ruptured. Further, this witness has referred and identified the documents produced at Exh. 41 and 42 in his deposition.

- 17.1 This witness was cross-examined by defence. In his cross-examination, this witness has admitted that he has not studied of Gynecologist. Further, he has denied that, they had recorded the history of the victim as per the police report. Further this witness has denied that they did not conduct any physical examination of the victim and they issued a false certificate at the behest of the police. Further this witness has denied that they did not take any samples from the victim. Further, this witness has admitted that there were no signs of internal or external injuries on the victim. Further, this witness has admitted that, there were no signs of force on the body of the victim. Further, this witness has admitted that, the victim did not mention the name of the

accused in the history given before them. Further, this witness has admitted that, there can be many reasons for a ruptured hymen. Further, this witness has admitted that, they did not obtain any identity proof of the victim. Further, this witness has denied that, he has stated false facts in the examination-in-chief and given false deposition on oath.

- 18] Thereafter, the prosecution has examined PW-6 – Shantilal Govindbhai Maheshwari, ASI, Koday Police Station at Exh.45. The said witness in his deposition has deposed that, on 01.11.2025, while he was performing his duty as the PSO at Koday Police Station, the In-charge Police Inspector, Shri D.B. Vaghela, had given the facts of a complaint received in person to be entered into the register and he had registered the said complaint in the prescribed online format vide Koday Police Station C.R. No. 250/2025, took the printout made his signature on it and immediately forwarded a copy to the Honorable Court. Further the witness identified their signature as the PSO on the original FIR shown from the court records and the same is exhibited vide Exh.-46. Further, he has deposed that, after the offence was registered, the further investigation had been forwarded to Police Inspector Shri B.P. Kharadi.

- 18.1 This witness was cross-examined by defence. In his cross-examination, he has admitted that he has not done any procedure except registering the offence. Further, he has admitted that he has no personal knowledge regarding the present offence.

19. Thereafter, the prosecution has examined **PW-7 – P.I. Bhupendra Pravinchandra Kharadi** at **Exh.49** who is the Investigating Officer in the instant case. The said witness in his deposition has deposed that, in year- 2025, he was on

duty as Police Inspector in Koday Police Station, meantime as he received the investigation of Koday Police Station First C.r. No. 0296/2025, he took over the investigation. Further, he has deposed that, for the purpose of investigation, he recorded the statements of relevant witnesses and a panchnama of local place was conducted in the presence of the panchs. Further, he has deposed that, the statement of the victim was recorded for the purpose of investigation and based on the statement of the victim, as the offence under sections 3(a),4,5(1),6 etc. of the POCSO Act and section 64(2)(m) of the BNS were constituted, a report for addition of section was filed in the Hon'ble Court. Further, he has deposed that, procedure was made to obtain a statement of victim as per Section 183 of the BNSS. Further, he has deposed that, the clothes worn by the victim at the time of the incident were seized as per the details of the Panchnama and procedure was made to get the victim medically examined. Further, he has deposed that, as during the investigation, the accused was found, the clothes worn by the accused at the time of the incident and vehicle two wheeler used in the offence were seized as per the details of the Panchnama. Further, he has deposed that procedure was conducted to get the accused medically examined for investigation purpose. Further, he has deposed that as the medical samples of the victim and the accused were came from the hospital, seized the same as per the details of the Panchnama. Further, he has deposed that the victim's birth certificate was obtained for investigation and kept with investigation papers. Further, he has deposed that, the seized muddamal was sent to the FSL for examination. Further, he has deposed that at the end of the investigation, as there was

sufficient evidence against the accused, a charge-sheet was filed in the Hon'ble court. Further, he has deposed that, he know the accused who is present in the court today. Further, this witness has identified the accused as well as muddamal recovered by him during the investigation before the Court. This witness has referred and identified the documents at Ex.50 to 57, in his deposition. The witness has confirmed the statement of victim recorded before him.

19.1 This witness was cross-examined by learned advocate for the defence. In his cross-examination, he has denied that, he has recorded the statements of the witnesses himself while sitting in the office. Further, he has denied that the Panchnamas were prepared while sitting in his office and later the signatures of the Panchs were taken. Further, he has denied that he has falsely arrested the accused. Further, he has denied that, the muddamal is falsely created. Further, he has denied that, despite the absence of any evidence against the accused, a false charge-sheet was file by conducting false investigation and creating false documents.

20] Now, on perusal and appreciation of the deposition of the complainant i.e. **father of the victim** (PW1) who has been examined by the prosecution vide Exh.-18. He has not supported the case of prosecution He has mainly stated in his deposition that, the incident occurred approximately eight months ago and on the day of the incident, all their family members went to sleep after having dinner at night. When his wife and he woke up in the morning and checked where his victim daughter was sleeping, she was not present there. Therefore, he searched among his relatives and in the neighborhood, but she was not found. Further, he has

deposed that, the accused who is his family brother-in-law (shala) who also used to come to the farm occasionally for work and upon searching, he was also not found present, therefore, they got suspicious. So, he filed a police complaint. Hence, it transpires from his deposition that, the complainant has filed the complaint on the basis of suspicion only. Thereafter, he has deposed that, approximately twenty to twenty-five days after he filed the complaint, his victim daughter was found and when he asked his victim daughter, she stated that as there were frequent quarrels with her mother regarding farm work and as his wife used to frequently scold her about farm work, which she did not like. Therefore, during the time of the incident, feeling very hurt and in a fit of rage, she went to his maternal cousin's house at Bhuj without telling any family members and further she also stated that no other incident occurred with her beyond this. This witness has clearly stated in his deposition that, it has never happened that the accused despite knowing his victim daughter to be a minor, by taking advantage of her innocence, luring her of marriage, made a friendship with her, came to their farm and had physical relations with his victim daughter in this farm at night, either with her consent or against her consent. Further, he has also deposed that, it has never happened that the accused, despite knowing that his daughter was a minor, by taking advantage of her innocence, luring her of marriage, abducted her from their legal guardianship, took her to various places, kept her with him at those various places, and had physical relations with his victim daughter at any time or any place, either with her consent or against her consent. Even, he has clearly stated in his deposition ,

it has never happened that the accused took his victim daughter to different locations and frequently had physical relations with her, either with her consent or against her consent and his victim daughter has ever informed him about such facts. Hence, this witness has totally denied the case of prosecution. As this witness has not supported case of the prosecution, Ld. P.P. has declared this witness hostile. After declared this witness hostile, the Ld. P.P. with permission of this Court, cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution. Further, in his cross-examination conducted by defence side, this witness has clearly admitted that, as his victim daughter had a quarrel with her mother over the work of the farm, she went to her maternal cousin's house without informing them. Further, he has also admitted that, no incident happened to his victim daughter nor did his victim daughter tell them any fact that any incident happened to her. Further, he has also admitted in his cross-examination that, the police did not ask him any fact other than asking for his name and address, nor did he write to the police. Finally he has admitted that, the accused never did any misdeed to his victim daughter. Thus, the complainant i.e. father of victim has not supported to the prosecution's case and hence, the case of the prosecution becomes doubtful. Looking to the evidence of the father of victim, it's appeared that no any material facts have come out which involved the accused in this offence.

- 21] Further, on perusal and appreciation of the deposition of the mother of the victim (PW2) who has been examined by the prosecution vide Exh.-20. She has also not supported the

case of prosecution. She has mainly stated in her deposition that, the incident occurred approximately eight months ago and on the day of the incident, all their family members went to sleep after having dinner at night. When she and her husband woke up in the morning and checked where her victim daughter was sleeping, she was not present there. Therefore, they searched among their relatives and in the neighborhood, but she (victim) was not found. Thereafter, she has deposed that, the accused is her family brother who also used to come to the farm occasionally for work and upon searching, he was also not found present, therefore, they got suspicious. So her husband filed a police complaint. Hence, it also transpires from her deposition that the complaint was lodged on the basis of only suspicion. Then, she has deposed that, her victim daughter was found approximately twenty to twenty-five days after filing the complaint and when asked her victim daughter, she stated that as there were frequent quarrels with her mother regarding farm work, she went to her maternal cousin's house at Bhuj without telling any family members and further her victim daughter stated that no other incident occurred with her beyond this. Further, she has also deposed that, it has never happened that the accused despite knowing her victim daughter to be a minor, by taking advantage of her innocence, by luring her of marriage, made a friendship with her, came to their farm and had physical relations with her victim daughter in this farm at night, either with her consent or against her consent. She has also stated in her deposition that, it has never happened that the accused, despite knowing that her victim daughter was a minor, by taking advantage of her innocence, luring her of

marriage, abducted her from their legal guardianship and took her to various places, kept her with him at those various locations, and had physical relations with her victim daughter at any time or any place, either with her consent or against her consent. She has also clearly stated in her deposition that, it has never happened that the accused took her victim daughter to different locations and frequently had physical relations with her, either with her consent or against her consent and her victim daughter has ever informed her about such facts. Hence, this witness has also totally denied the case of prosecution. As this witness has not supported case of the prosecution, Ld. P.P. has declared this witness hostile. After declared this witness hostile, the Ld. P.P. with permission of this Court, cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution. Further, in her cross-examination conducted by defence side, this witness has clearly admitted that, as her victim daughter had a quarrel and verbal spat with her over the work of the farm, she went to her maternal cousin's house without informing them. Further, she has also admitted that, no incident happened to her victim daughter nor did her victim daughter tell them any fact that any incident happened to her. Even, she has admitted that, the police did not ask her any fact other than asking for her name and address, nor did she write to the police. This witness has clearly admitted that, the accused never did any misdeed with her victim daughter. Thus, the mother of victim has also not supported to the prosecution's case and hence, the case of the prosecution becomes doubtful. Looking to the evidence of the mother of victim, it's

appeared that no any material facts have come out which involved the accused in this offence.

- 22] Now, if the deposition of the main witness i.e. **victim (PW3) at Exh.-21** is seen, she has also not supported the case of prosecution. The victim has mainly deposed in her examination in chief that, the incident was occurred about five months ago and during the time of the incident, as she had verbal spat and quarrel with her mother about farming work, one day she got very angry and felt very upset and she went to her maternal uncle's house in Bhuj without informing anyone at home and stayed there for 20 to 25 days. Further, she has deposed that, as she left home without informing anyone and she could not found to her family members and she did not inform her parents, her father filed a police complaint in anger. Apart from this, no other incident has happened with her. Further, she has also stated in her deposition that, she also told her maternal uncle that she had come there out of resentment due to a dispute with her mother over farm work and she had forbidden her maternal uncle from telling her parents that she was at his house but thereafter as her anger subsided and she realized the reality of the situation, she returned her home by herself. Further, she has deposed that, after returning home, she told her parents real facts that as she used to have verbal spat and dispute with her mother about farming work and as her mother used to scold her repeatedly about farming work, she felt very upset and got angry, so she had gone to her maternal uncle's house without informing them and nothing had happened to her. Further, the victim has clearly stated in her deposition that, it has not happened that, the accused by taking advantage of her naivety and

making friendship with her and by luring her of marriage had ever made physical relations with her anywhere, either with her consent or against her consent. Further, she has also deposed that, it has never happened that, the accused by abducting her from legal guardianship of their parents, took her to the different places and ever made physical relations with her either with her consent or against her consent. Even, she has also deposed that, after the incident, police took her to the hospital for medical examination where also she told the doctor above stated facts. Further, upon seeing the accused on the TV screen, the victim stated that she did not know this person very closely but he is her family maternal uncle. Then, she has clearly stated in her deposition that, it has never happened that the accused despite knowing that she was a minor, by taking advantage of he innocence and luring her into marriage and by making friendship with her came in their farm at night and made physical relations with her in the farm either with her consent or against her consent. Even, this witness has also deposed that, it has never happened that, the accused despite knowing that she was a minor, by taking advantage of her innocence and luring her into marriage abducted her from the legal guardianship of her parents and took her to different places and kept her with him in different places and made physical relations with her at any time or in any place either with her consent or against her consent. The victim has also stated in her deposition that, it has also never happened that, the accused has ever taken her to different places and has ever made physical relation with her repeatedly at any time, either with her consent or against her consent. Thus, this witness has not supported case of the

prosecution. Therefore, Ld.P.P. has declared this witness hostile and after declaring hostile, the Ld. P.P. cross examined the witness in detail but the prosecution has totally failed to bring anything important on record which helpful to the case of the prosecution. Even in her cross-examination conducted by defence side, this witness has clearly admitted that, as she frequently had quarrels and disputes with her mother regarding farming work, she had gone to her maternal uncle's house by herself without informing her family members due to anger. She has also admitted in her cross examination conducted by defence side that it has never happened that the accused ever committed any misdeed with her at any time, either with her consent or against her consent and she had ever informed her parents regarding the same. Further, she has also admitted that, she had given the statement before the Magistrate as instructed by the police. Further she has admitted that, the police had only asked for her name and address, apart from which, she had not stated any facts to the police, nor had the police asked her anything. Thus, the main witness of this case i.e. victim in her examination in chief as well as in her cross-examination, has not supported the case of the prosecution. Therefore, looking to the above evidence of the victim, case of the prosecution and complaint against the accused becomes doubtful. Looking to the evidence of victim, it's appeared that no any material facts have come out which involved the accused in this offence.

- 23] Further, the FSL report which is produced on record at Exh.57 does not suggests the act of sexual intercourse by the accused with the victim. Also, no any material was found on the any Muddamal article or in the samples which collected

during investigation and thus, the FSL report also does not support the case of the prosecution.

- 24] It is to be noted that as discussed above, it's appeared that the main prosecution witness i.e. victim herself is not supporting the case of prosecution, even parents of victim have also not supported the case of prosecution, therefore, it can be noted that primary evidences of the prosecution is not supporting to the prosecution case. It is further noted that the other evidence which produced on record by prosecution like statement u/s. 183 of BNSS of the victim and history which record by the medical officers, etc. These all evidences are corroborative piece of evidence and it is settled principle of law that the corroborative piece of evidence (supporting evidence) can not take place of primary evidence (main evidence). Further, victim has clearly stated in her deposition at Exh.-21 that she has stated the very same facts to the doctor as she has stated in the deposition today. Further victim has also admitted in her cross-examination that she recorded the statement U/s 183 of BNSS as instructed by the police. Under these circumstances, this Court is of view that the prosecution has absolutely failed to prove beyond reasonable doubt that on the day of incident, accused had abducted the victim from her lawful guardianship by giving lure of marriage and was subjected to sexual assault either with her consent or against her consent. In these circumstances, on over all appreciation of evidence and discussions made herein above, this Court concludes that the prosecution has not succeeded to prove the charge that the accused abducted the minor victim girl from the

legal guardianship of her guardian, by luring her to get marry with her and with intention to have sexual relations with her, took her to different places had sexual intercourse with the victim frequently either with her consent or against her consent and thereby committed the offence punishable u/s.137(2), 87, 64(2)(M) of BNS read with Sections 3(a), 4, 5(1), 6 of the POCSO Act beyond reasonable doubt by leading cogent and reliable evidence and therefore, Issue No.2 is answered in the negative and for Issue No.3, following final order is passed:

-:: ORDER ::-

1. The Accused **Arvind Narkhan Dantaniya**, R/o. Village:- Faradi, Dantaniya Vas, Taluka:- Mandvi- Kachchh is hereby acquitted from the charges u/s.87,137(2),64(2)(M) of BNS read with Sections 3(a), 4, 5(1), 6 of the POCSO Act.
2. Bail bond executed by the accused at the time of releasing him on bail stands cancelled.
3. The accused shall execute bail bond of Rs.5,000/- (Rupees Five Thousand only) with surety of the like amount in compliance with Section 481 of the Bhartiya Nagrik Suraksha Sanhita, to appear before the higher Court as and when such Court issues notice in respect of an appeal or revision/petition.
4. So far as Muddamal vehicle motorcycle is concerned, if any interim order is passed, it is made permanent and if no order is passed, then it is hereby directed to do the procedure for its disposal as per law after the

expiration of the Appeal period and in case Appeal is preferred, then as per the decision in the said appeal.

5. Muddamal sample, clothes etc. seized in this case shall be destroyed as per rules after the expiration of the Appeal period and in case Appeal is preferred, then as per the decision in the said appeal.

Signed and Pronounced in open Court today i.e. on 01st day of April, 2026.

Place: Bhuj.

Date : 01.04.2026

Hiren Dave

sd/-

(J.A. THAKKAR)

**Special Judge (POCSO) &
Additional Sessions Judge,
Bhuj- Kachhh.
(GJ-00631).**