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FORM - A Exh. __

**IN THE COURT OF SPECIAL (POCSO) JUDGE,
DHRANGADHRA.**

Present: Mukeshkumar Pratapbhai Chaudhari Special (POCSO) Judge & 3rd Additional Sessions Judge, Dhrangadhra. Date of Judgment : 11/03/2026 Special POCSO Case No. 15/2025 (New) Details of FIR/Offences/Police Station	
Cr.R.No.11211058250276/2025 Surendranagar District.	
Police Station	Bajana Police Station
Offences	Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of POCSO Act.
Charges Framed	Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of POCSO Act.
COMPLAINANT :	State of Gujarat 
REPRESENTED BY :	Ld. A.P.P. Mr.P.B.Makwana
ACCUSED:	Babubhai @ Dogo Narshibhai Somabhai Purbiya Age: 55 years, Occ.: Labour, R/o. Nr. Thakorvas, Valmikivaas, Ta. Patdi, Dist. Surendranagar.
REPRESENTED BY	Ld.Adv. Mr.S.Y.Makwana

FORM - B

Date of Offence	30/07/2025
Date of FIR	31/07/2025
Date of Charge-sheet	24/09/2025
Date of Framing of Charges	09/10/2025
Date of commencement of evidence	09/10/2025
Date on which judgment is reserved	06/03/2026
Date of the Judgment	11/03/2026
Date of the Sentencing Order, if any	11/03/2026

ACCUSED DETAILS

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr. PC
1	Babubhai @ Dogo Narshibhai Somabhai Purbiya	31/08/2025	--	Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and	Convicted	--	31/08/2025 till date

				Section s 12 of POCSO Act.			
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LIST OF MUDDAMALS

Material Object No.	Description	Proved/Attested By
Nil	Nil	Nil

FORM – C

LIST OF EVIDENCES OF PROSECUTION SIDE

ORAL EVIDENCES

Sr.No.	Name of Persons		Exh.
1		Complainant	7
2	Deposition of victim	-	10
3		Witness	12
4		Witness	13
5	Dr. Payal Prabhatbhai Aal	Medical Officer	14
6	Raghuvirbhai Savabhai Khambhala	Chief Officer	18
7	Jagdishbhai Dansingbhai Tretiya	Witness	22
8	Udaysingh Rambhai Kesariya	Panch Witness	23
9	Dalsukhbhai Navghanbhai Makwana	Panch Witness	25
10	Bhupatbhai Karamshibhai Dethadiya	ASI	27
11	Maheshbhai Bhavanbhai Bamba	PI	31

DOCUMENTARY EVIDENCES

Sr.No.	Name of Persons	Exh.
1	Complaint	8
2	Statement of victim	11
3	Police yaadi of victim	15
4	OPD case papers of victim	16
5	MLC of victim	17
6	Yaadi for verifying birth certificate of victim	19
7	Forwarding letter regarding verification of birth certificate of victim	20
8	Birth certificate of victim	21
9	Arrest panchnama	24
10	Panchnama of place of offence	26
11	Suchipatra	28
12	FIR	29
13	Yaadi for panch	32
14	Forwarding letter to Magistrate for recording statement of victim	33

JUDGMENT

1. An offence has been registered against the accused with Bajana Police Station vide C.R.No.11211058250276/2025 for the offence punishable under sections 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of the Bharatiya Nyaya Sanhita, 1860 ('the BNS' for short), and under Sections 12, of the Protection of Children From Sexual Offences Act, 2012 ('the POCSO Act' for short).

2. **CASE OF THE PROSECUTION :**

Complainant [REDACTED] has lodged a complaint before Bajana Police Station, alleging that the accused has followed and stalked the victim while she was going to school and used criminal force with an intent to outrage her modesty and disrobe closed her mouth and kidnapped the victim, who was a minor from the lawful guardianship on his shoulder and taken to some vacant place and removed his clothes and asked to remove the clothes of the victim and abused the victim and threatened to kill the victim and committed sexual harassment and committed the offence and for the aforesaid incident, complainant has lodged the complaint.

3. **Arrest and bail :-**

Accused was arrested for the alleged offence and is an UTP.

4. **Investigation and Charge Sheet:-**

The I.O. has investigated the offence and on collection of sufficient evidences, has filed charge-sheet U/s. 193 of BNSS, for the alleged offences against the present accused.

Since the offences are exclusively triable by the Special Court designated to try the POCSO cases, charge-sheet was filed before this Court.

5. **Charge and Plea** :-

Ld. Advocate Mr. S.Y.Makwana for the accused and on behalf of prosecution, Ld. A.P.P. Mr. P.B.Makwana has presented the case of the State.

The accused was called upon before this Court and after verifying the compliance regarding providing police papers and also after hearing Ld. A.P.P. for the State & Ld. Advocate for the accused, the charge was framed Vide Ex.3 on 09/10/2025 under Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of Pocso Act as provided U/s. 251 of the BNSS. Charge was read over to the accused and statement of the accused was recorded vide Ex. 4, wherein he has denied the allegation and not plead guilty and further claimed trial.

6. To prove the guilt of the accused, Prosecution has adduced oral as well as documentary evidence as mentioned hereinabove in Form C. The prosecution has filed drop pursis vide Exh. 34 and closing pursis vide Exh. 35. On filing of closing pursis vide Ex. 35 by the Prosecution, further statement U/s. 351 of BNSS was recorded wherein, accused has denied all the charges & allegations and also stated that, he has been falsely implicated in the offence keeping in mind the enmity against the accused.

7. **Arguments** :-

Heard Ld. A.P.P. for the State. Ld. A.P.P., P.B.Makwana has argued that Prosecution has examined all material witnesses and successfully proved the case. The panch witnesses have

supported the contentions of respective panchnamas. All the material witnesses have supported the contentions of their statements which was recorded before the police. Furthermore, the medical records have been supported by the doctor who have examined the victim and has conducted the physical examination of the victim. Therefore, accused is required to be convicted for the offences and there is no reason to discard evidence produced on record. On the other hand, Ld. Advocate Mr. S.Y.Makwana for the accused has vehemently argued that, there is no case of sexual assault as is being falsely implicated in the present case. No independent witnesses have been examined. It is submitted that the accused cannot be convicted only on the basis of the corroborative evidence of the doctor/investigating officer. There are no injuries to the victim, is clear from the medical evidences. Ld. Advocate for the accused has further submitted that, looking to the evidence of the minor victim girl, no ingredients of alleged offence have come on record which would lead to involvement of the accused for the alleged offences and therefore, accused is required to be acquitted from the charged leveled against him.

8. **Points for determination:-**

In view of the submissions and also from the facts and evidence on record, following points has been arisen for just determination of this case.

POINTS FOR DETERMINATION

1. Whether the prosecution proves beyond reasonable doubt that on 30/07/2025, the victim was minor i.e.,

below 18 years of age?

2. Whether the prosecution proves beyond reasonable doubt that on 30/07/2025, the accused has followed and stalked the victim while she was going to school and used criminal force with an intent to outrage her modesty and disrobe closed her mouth and kidnapped the victim, who was a minor from the lawful guardianship on his shoulder and taken to some vacant place and removed his clothes and asked to remove the clothes of the victim and abused the victim and threatened to kill the victim and committed sexual harassment, thereby committed the offence punishable under Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of POCSO Act?
3. What order ?

ANSWERS TO THE AFORESAID POINTS OF DETERMINATION:

9. The answers to the aforesaid points of determination are as under:

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

: REASONS :

10. In every criminal trial, the trial begins with the presumption that the accused is innocent according to main principles of the criminal justice system. Under normal

circumstances, the burden of proof in criminal proceedings rests with the complainant side. In the present case, the accused is charged with offences under the POCSO Act. If the prosecutrix's testimony is found to be credible by the court, the testimony of such a prosecutrix does not require other supporting evidence and based on the evidence of the sole prosecutrix, the accused can be found guilty in the case. In this regard, in the judgments of Hon'ble Supreme Court as well as the Hon'ble Gujarat High Court have made it clear that the testimony or evidence of the prosecutrix does not become unreliable due to the contradictions or exaggerated stories or flaws in the minor details filed during the testimony of such prosecutrix. In view of such legal situation, it is required to evaluate the evidence produced by the complainant side in the present case.

11. I have considered the submissions of Ld. Advocates for the parties and the record. It is settled proposition of law that the prosecution has to stand on its own feet and it cannot take the benefit of the weakness of the defence of the accused. Prior to advert to the evaluation of the oral as well as documentary evidence, it would be necessary to refer certain judgments. When there is a significant discrepancy between the evidence of the star witness/prosecutrix/eye witness of the case and the medical evidence, and especially who has not provided any supporting evidence to the case of prosecution side, the accused may not be found guilty. Such an advantage should be given to the accused only when there is a contradiction which is important and the main contradiction which affects the origin of the case. In addition when the prosecutrix in its deposition

voluntarily states before the court that there was no incident as per the prosecution's side case and when other witnesses support her, there is no reason to doubt such evidence or reject such evidence. If the medical opinion indicates alternative possibility then it cannot be accepted as final. This principle has been stated by the Hon'ble Supreme Court and Hon'ble High Court in the following judgments.

- (1) Radhakrishna Nagesh Vs. State of Andhra Pradesh
Criminal Appeal No.1707/2009 - S.C., Dt. 13/12/2012.
- (2) Dayal Singh and others Vs. State of Uttaranchal
[(2012) 7 SCALE 165] 29.
- (3) Kamaljit Singh Vs. State of Punjab
[2004 Cri.L.J.28],SC.

Appreciation of Evidences:-

12. Now, in the light of the aforesaid guidelines, this Court shall advert to discuss the oral and documentary evidence led by the prosecution to prove the guilt of the accused.

13. In the present case, the prosecution has examined the PW 1- [REDACTED] **Complainant, vide Exh. 7**, wherein it is stated that, the incident occurred with her niece i.e., daughter of her brother-in-law. The incident occurred behind their house. On the day of incident, the victim came home from school during the recess hours. She went outside after doing the utensils and she heard the scream of the victim and when she went towards the sound, the scream stopped, therefore she returned but again heard the scream, therefore she went inside

the unused house and she saw that, the accused was standing naked and the victim was trying to remove her clothes. Therefore, she stated to the accused that, "you are of this age and what are you doing with this minor girl" and asked him to leave the victim and she pulled the victim towards her and she and the victim both started to scream due to which the crowd gathered and the accused escaped from there and then she asked the victim to which the victim stated that, the accused was trying to remove her clothes and stated that accused threatened to kill the mother of the victim and the accused asked the victim to go with her and held her and took her. The complaint was given by her which is brought on record vide Exh. 8 and she has identified the accused before the Court.

In the cross-examination, it is admitted that, they all and accused are staying at the same area and they belongs to Thakor community and there are many house of Thakor community. It is admitted that, the accused belongs to Valmiki community and there are two house of Valmiki community in their area. It is denied that, there were any relation between them and accused before the incident explaining that, the accused used to come in their area to collect food and to play drums. She stated that, they are living in joint family and has one kitchen. It is admitted that, the accused used to ask and eat explaining that, accused goes to play drums at the weddings. The place of incident is 20 to 50 foot away from their house. It is denied that, it is falsely stated that, "the victim came home from school during the recess hours. She went outside after doing the utensils

and she heard the scream of the victim and when she went towards the sound, the scream stopped, therefore she returned but again heard the scream, therefore she went inside the unused house and she saw that, the accused was standing naked and the victim was trying to remove her clothes. Therefore, she stated to the accused that, "you are of this age and what are you doing with this minor girl" and asked him to leave the victim and she pulled the victim towards her and she and the victim both started to scream due to which the crowd gathered and the accused escaped from there and then she asked the victim to which the victim stated that, the accused was trying to remove her clothes and stated that accused threatened to kill the mother of the victim and the accused asked the victim to go with her and held her and took her." She along with persons from their area went to file complaint. It is admitted that, they all requested the police and the police has written down the complaint and she signed it explaining that, she has narrated the complaint. It is denied that, she has not mentioned in the complaint regarding the hearing of screams of victim.

14. **PW 2 - Victim, deposed vide Exh. 10** in the form of question and answer that, she is studying in 7th standard. The first recess timing is at 1.30 in the afternoon and another one is at 3.30 in the afternoon and at 1.30 she goes to have lunch at home and at 3.30 she have snacks at the school itself. It is stated that, before two to three months, when she was returning back to school after having lunch, at that time, from behind the accused Dogo grabbed her from mouth and took her to the barren area.

Dogo means Babu Narshi. It is stated that, the accused is of her village and used to come at night to collect food. After taking her to the barren place, the accused removed his clothes and threatened her to remove her clothes and when she refused, the accused beat her and was putting his hand on her chest and as she screamed, her aunt heard her screams and her aunt came there and by seeing her, the accused stated her to go out and not to say anything to anyone and as her aunt screamed, the accused put on the clothes and ran away and thereafter, they searched for the accused but he was not found and then on the next day, they filed the complaint. She was taken to medical examination and then before the Magistrate wherein she has given the statement which is produced at Exh. 11 and she has identified the accused.

In the cross-examination, in the form of question answer, she admitted that, the complainant is her aunt. She admitted the complaint against the accused and the police interrogated her in presence of her aunt and mother. She stated that, her aunt and mother were giving answers to the questions asked by the police. She has admitted that, she has stated to the police that, as she denied to remove clothes, the accused beat her and was putting his hands over her chest. She has admitted that, the accused has taken her and removed his clothes and threatened her. She has denied that, this incident has not happened.

15. The prosecution has examined, **PW 3** – [REDACTED], **Witness, vide Exh. 12**, wherein it is stated that, the victim is his daughter and was studying in 7th standard

in their village wherein recess timing is 1.30 in the afternoon. At the time of incident, he was at the field and his wife called him and informed him that the victim was teased, therefore he came to the house and when asked to the victim, she stated that, "the accused has taken her to the barren place and removed his clothes and molested her by putting hand on her chest and meanwhile the complainant came and rescued her." The accused absconded from the village. The police recorded his statement. He has identified the accused.

In the cross-examination, it is admitted that, he has not seen the incident. It is denied that, he has not spoken to the victim after the incident. It is denied that, the victim stated him that, "the accused has taken her to the barren place and removed his clothes and molested her by putting hand on her chest and meanwhile the complainant came and rescued her" is falsely mentioned and not stated in his police statement.

16. The prosecution has examined PW 4 – [REDACTED] [REDACTED] Witness, vide Exh. 13, wherein it is stated that, at the time of incident, she was at her house. The accused has taken the victim to barren place and removed his clothes and was trying to remove the clothes of victim, due to which the victim screamed and her sister-in-law went there are rescued the victim and the accused went away after wearing clothes. Thereafter, all gathered and went to the police station to file the complaint. The police recorded her statement. She has identified the accused before the Court.

In the cross-examination, it is admitted that, she has not seen the incident. It is denied that, " the accused has taken the victim to barren place and removed his clothes and was trying to remove the clothes of victim, due to which the victim screamed and her sister-in-law went there are rescued the victim and the accused went away after wearing clothes" is false stated. It is denied that, the victim has not stated anything related to the incident.

17. The prosecution has examined **PW 5 – Dr. Payal Prabhatbhai Aal, Medical Officer, vide Exh. 14**, wherein it is stated that, on 10/09/2025, while she was serving her duty, at that time, the victim was brought before her through police yaadi of Exh. 15. She has issued OPD case papers of the victim and consent letter which is produced at Exh. 16. The victim gave history before her. There was no injury over the hand of the victim. The MLC of the victim is produced at Exh. 17.

In the cross-examination, it is admitted that, there were other people with the victim and the history was given by them explaining that, the complainant gave the history. It is admitted that, incident occurred on 31/07/2025 and the victim was brought before her on 10/09/2025.

18. The prosecution has examined **PW 6 – Raghuvirbhai Savabhai Khambhala, Chief Officer, vide Exh. 18**, wherein it is deposed that, as the summons was issued, he has come before the Court with the birth register of the year 2013. The police has sent yaadi for verifying the birth certificate of the

victim which is produced at Exh. 19 and after due verification, the forwarding letter was sent to the police which is produced at Exh. 20, wherein the date of birth of the victim is 04/11/2013 as per entry no. 688 and the birth certificate of the victim is produced at Exh. 21.

In the cross-examination, it is admitted that, as per the yaadi of the police, the birth certificate of the victim was issued. It is admitted that, he has no knowledge regarding the incident and he is deposing on the basis of the record available.

19. The prosecution has examined PW 7 – [REDACTED] [REDACTED] Witness, vide Exh. 22, wherein it is stated that, at the time of incident, he was at the field and he was sitting for lunch, at that time, there was chaos outside therefore, he went there and saw that, the complainant was screaming and when he asked, the complainant stated that, the accused took the victim. Therefore, he went in search of the accused but he was not found. Then he returned and asked about the incident and got to know that, the accused was standing removing his clothes and as chaos arose, the accused put on his clothes and absconded. Thereafter, they came to know that, the accused had teased other girls also. The police has recorded his statement and he has identified the accused before the Court.

In the cross-examination, it is denied that, he was not present at the time of incident explaining that, he came from field and was sitting for lunch at that time the chaos occurred. The police came for interrogation after three days and at that

time, his family members were there. It is admitted that, police asked his name and address and denied that, other details were stated by the complainant and father of the victim.

20. The prosecution has examined **Panch Witness, PW 8 – Udaysingh Rambhai Kesariya, vide Exh. 23**, wherein it is stated that, on 31/08/2025, he was sent to remain as panch for the arrest of the accused and when he reached at the police station, the accused was introduced to him and done the procedure of arresting the accused in his presence. The arrest panchnama is produced at Exh. 24. He has not identified the accused before the Court.

In the cross-examination, it is admitted that, he has not got any written order to remain as panch explaining that, oral order was received. It is denied that, when he reached, the panchnama was prepared and he has only signed the panchnama.

21. The prosecution has examined **PW 9 – Dalsukhbhai Navghanbhai Makwana, Panch Witness, vide Exh. 25**, wherein it is stated that, while he was returning from the field, the police asked him to sign in the panchnama, therefore he signed and another panch witness was Valmiki Rajubhai Bachhubhai. There is house of Rajubhai in the nearby place and one barren house wherein the bina is built. The panchnama of place of offence is produced at Exh. 26.

In his cross-examination, it is admitted that, the police asked him to sign the prepared papers and after him Rajubhai had signed.

22. The prosecution has examined, **PW 10 – Bhupatbhai Karamshibhai Dethadiya, ASI, vide Exh. 27**, wherein it is stated that, on 30/07/2025, he was serving his duty, at that time, the complaint was sent to him for registration. The suchi patra is produced at Exh. 28, FIR at Exh. 29 and he has made entry regarding the same in station diary.

In the cross-examination, it is admitted that, the complaint was not filed in his presence. It is admitted that, his higher authority sent the complaint for registration, which he registered. It is admitted that, other than registering the complaint, he has not done any other procedure.

23. The prosecution has examined **PW 11 – Maheshbhai Bhavanbhai Bamba, PI vide Exh. 31**, wherein it is stated that, on 31/07/2025, while he was serving his duty, the complainant came before him to file the complaint before him which was done and the complaint was sent for registration. He has issued yaadi to Mamlatdar to arrange for panch, which is produced at Exh. 32. He has recorded the statement of necessary witnesses. He also forwarded letter to the Magistrate for recording the statement of the victim which is produced at Exh. 33. He has verified the date of birth of the victim, arrested the accused.

In his cross-examination, it is admitted that, there were other people with the complainant, when she came to file the complaint but denied that, they have narrated the complaint. It is denied that, the complainant has not stated in the complaint that, "the accused was standing naked by removing his clothes

and was trying to remove the clothes of the victim", explaining that, it has not mentioned in the complaint, that the accused was trying to remove the clothes of the victim. It is denied that, it was not found that, the accused has not physically touched the victim. It is denied that, the panchnamas were not drawn in presence of panchas and were written in consonance with the complaint. It is denied that, the statement of witnesses and victim were not written as narrated. It is stated that, when the victim was taken for recording her statement, her father was also there. It is denied that, without any cogent evidence, the charge-sheet is filed against the accused.

24. According to the principles of criminal law as well as the provisions of the Indian Evidence Act, the presumption of innocence of the accused is binding on the court until the prosecution has proved the charge against the accused beyond reasonable doubt. In other words, the burden of proving the case against the accused beyond reasonable is imposed by law. While the accused has to prove such a fact according to the principle of preponderance of probability. It is well established that, if a substantial doubt is raised about the case of the prosecution, the benefit of the same is always given to the accused. Now, keeping in view the above established position of law, the oral and documentary evidence presented by the appellant has been analyzed. For a fair decision of this case, some provisions of Indian Evidence Act, POCSO Act, Indian Penal Code have to be observed which are mentioned below for ready reference:

The Indian Evidence Act, 1972

Section-3 – Interpretation Clause-

“Fact”, “Fact” means and includes -

- (1) any thing, state of things, or relation of things, capable of being perceived by the sensus;*
- (2) any mental condition of which any person is conscious.*

“Facts in issue” - *The expression “ Facts in issue” means and includes any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature, or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.*

“Evidence” - *“Evidence” means and includes -*

- (1) all statements which the Court permits or requires to be made before it by witnesses, in relation inquiry, such to matters statements of are fact under called oral evidence;*
- (2) all documents including electronic records produced for the inspection of the Court], such documents evidence.*

“Proved” - *A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.*

- ***Section – 4 - “Shall presume”*** - *Whenever it is directed by this Act that the Court shall presume a fact, it shall regard*

such fact as proved, unless and until it is disproved.

“Conclusive proof”, - *When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.*

The Protection of Children from Sexual Offences Act, 2012
(POCSO Act).

Section 11 : Sexual Harassment - *—A person is said to commit sexual harassment upon a child when such person with sexual intent,—*

(i) utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child;

or

(ii) makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or

(iii) shows any object to a child in any form or media for pornographic purposes; or

(iv) repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or

(v) threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or

(vi) entices a child for pomographic purposes or gives gratification therefor.

Explanation.—Any question which involves “sexual intent” shall be a question of fact.

Section 12: Punishment for sexual harassment.—

Whoever, commits sexual harassment upon a child shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

Bharatiya Nyaya Sanhita

Section 74 - Assault or use of criminal force to woman with intent to outrage her modesty — *Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.*

Section 75 - Sexual harassment— *(1) A man committing any of the following acts:— (i) physical contact and advances involving unwelcome and explicit sexual overtures; or (ii) a demand or request for sexual favours; or (iii) showing pornography against the will of a woman; or (iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment.*

Section 76 - Assault or use of criminal force to woman with intent to disrobe — *Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.*

Section 78 - Stalking - (2) *Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.*

Section 79 - Word, gesture or act intended to insult modesty of a woman — *Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object in any form, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.*

Section 137 - Kidnapping — *(2) Whoever kidnaps any person from India or from lawful guardianship shall be*

punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Section 351 - Criminal intimidation: - (2) *Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

Section 352 - Intentional insult with intent to provoke breach of peace —*Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

Point No. 1:-

25. In the light of the aforesaid oral as well as documentary evidences, now the question arises as to whether the prosecution has proved the age of the victim girl. The victim girl in her deposition has not stated her date of birth but has stated that, she was studying in 7th standard. The parents of the victim and the complainant in their depositions vide Exh. 12, 13 and 7 have corroborated the fact that, the victim was studying in 7th standard. Further, the prosecution in order to verify the age of the victim has

examined the Chief Officer, PW 6 vide Exh. 18, who has produced the police yaadi sent by the police to verify the date of birth of the victim, which he has verified and sent letter to police along with the birth certificate of the victim from Exhs. 19 to 21. The witness in his deposition has corroborated the entry no. 688, wherein the date of birth of the victim is mentioned as 04/11/2013. Looking to the birth certificate of the victim at Exh. 21, the date of birth of the victim is mentioned as 04/11/2013. The offence occurred on 30/07/2025, therefore at the time of the incident, the victim was of 11 years 08 months and 26 days. Moreover, the defence has brought nothing contradictory to these evidences. Hence, at the time of the incident, the victim was a minor. Hence, I answer **point no. 1 in affirmative.**

Point No. 2:-

26. Looking to the deposition of the complainant, who is the aunt of the victim, vide Exh. 7, has clearly stated that, when she went outside after doing the utensils, she heard the scream of the victim and when she went towards the sound, the scream stopped, therefore she returned back but again heard the scream, therefore she went inside the barren house and she saw that, the accused was standing naked and the victim was trying to remove her clothes. Therefore, she stated to the accused that, "you are of this age and what are you doing with this minor girl" and asked him to leave the victim and she pulled the victim towards her and she and the victim both started to scream due to which the crowd

gathered and the accused escaped from there and then she asked the victim to which the victim stated that, the accused was trying to remove her clothes and stated that accused threatened to kill the mother of the victim and the accused asked the victim to go with her and held her and took her. She has identified the accused before the Court. In her cross-examination, it is stated that, the place of incident is 20 to 50 foot away from their house. It is denied that, it is falsely stated that, "the victim came home from school during the recess hours. She went outside after doing the utensils and she heard the scream of the victim and when she went towards the sound, the scream stopped, therefore she returned but again heard the scream, therefore she went inside the unused house and she saw that, the accused was standing naked and the victim was trying to remove her clothes. Therefore, she stated to the accused that, "you are of this age and what are you doing with this minor girl" and asked him to leave the victim and she pulled the victim towards her and she and the victim both started to scream due to which the crowd gathered and the accused escaped from there and then she asked the victim to which the victim stated that, the accused was trying to remover her clothes and stated that accused threatened to kill the mother of the victim and the accused asked the victim to go with her and held her and took her." She has corroborated the contents of the complaint. The accused side has not brought anything on record to contradict the say of the complainant and the cross-examination of this witness has been in complete

denial. From the cross-examination of the complainant, it has come on record that, the accused used to come to collect food and to play drums, therefore, they are known to the accused but nothing came on record which shows that, there was enmity between the complainant, victim, and parents of the victim with and accused and the complaint has been filed to falsely implicate the accused.

Now, looking to the deposition of the victim vide Exh. 10, which is in the form of question and answer, it is stated that, before two to three months, when she was returning back to school after having lunch, at that time, from behind the accused Dogo grabbed her from mouth and took her to the barren area. Dogo means Babu Narshi. After taking her to the barren place, the accused removed his clothes and threatened her to remove her clothes and when she refused, the accused beat her and was putting his hand on her chest and as she screamed, her aunt heard her screams and her aunt came there and by seeing her, the accused stated her to go out and not to say anything to anyone and as her aunt screamed, the accused put on the clothes and ran away. She was taken to medical examination and then before the Magistrate wherein she has given the statement and she has corroborated the contents of statement under Section 183 of BNSS, which is produced at Exh. 11 and she has identified the accused. In her cross-examination, in the form of question answer, she admitted that, she has stated to the police that, as she denied to remove clothes, the

accused beat her and was putting his hands over her chest. She has admitted that, the accused has taken her and removed his clothes and threatened her. Therefore, looking to the deposition of the victim, it is clear that, the she knows the accused as the accused used to come to collect food.

Furthermore, looking to the depositions of father of the victim vide Exh. 12 it is stated that, at the time of incident, he was at the field and his wife called him and informed him that the victim was teased, therefore he came to the house and when asked to the victim, she stated that, "the accused has taken her to the barren place and removed his clothes and molested her by putting hand on her chest and meanwhile the complainant came and rescued her." In his cross-examination, he admitted that, he has not seen the incident but denied that, the victim stated him that, "the accused has taken her to the barren place and removed his clothes and molested her by putting hand on her chest and meanwhile the complainant came and rescued her" is falsely mentioned and the mother of the victim in her deposition vide Exh. 13 stated clearly that, the accused has taken the victim to barren place and removed his clothes and was trying to remove the clothes of victim, due to which the victim screamed and her sister-in-law went there are rescued the victim and the accused went away after wearing clothes and in her cross-examination, she admitted that, she has not seen the incident but denied that, " the accused has taken the victim to barren place and removed his clothes and was trying to remove the clothes of victim, due to which the

victim screamed and her sister-in-law went there are rescued the victim and the accused went away after wearing clothes" is false stated and also denied that, the victim has not stated anything related to the incident. Furthermore, looking to the deposition of PW 7 is hearsay witness and have deposed in his deposition vide Exh. 22 that complainant has informed regarding the incident to them.

27. Therefore, looking to the above depositions, it appears that, the complainant is the eye witness and she has clearly stated that, she has heard the screams of the victim and when followed the sound and reached at the place of offence, which is a barren area of the barren house, she saw the accused in naked condition and the victim was trying to remove her clothes and the victim has corroborated the same and stated that, the accused has beaten her and threatened to kill her mother and asked her to remove the clothes but as her aunt came she was rescued. Moreover, the parents of the victim are hearsay witnesses and have not seen the incident personally, which is an admitted fact. But, the parents of the victim has clearly denied in their cross-examination that, the accused has taken her to the barren place and removed his clothes and molested her by putting hand on her chest and meanwhile the complainant came and rescued her. Therefore, looking to the above deposition, the victim has admitted that, the accused has taken her and removed his clothes and threatened her and as she denied to remove her clothes, the accused beat her and was putting his hands over

her chest. There is no any substance brought on record by the defence to contradict the submission of the complainant, victim and parents of the victim and therefore, there is no reason to not consider the deposition of the victim. Moreover, all the material witnesses have admitted the contentions of their chief examination, in their cross-examination and the accused side has not brought anything on record to disbelieve the depositions of the material witnesses.

28. Therefore, in view of the provision of Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS, the accused has used criminal force on the victim, intending to insult, outrage and disrobe her modesty and kidnapped the victim after stalking her and removed his clothes and got naked and demanded and compelled the victim to remove her clothes and criminally intimidated the victim and breached the peace, which is clear from the depositions of the complainant/eye witness and the victim as mentioned hereinabove. The complaint of the present case was given by the complainant – aunt of the victim and in her chief-examination at Exh. 7, she has given evidence in support of the facts as mentioned in the complaint at Exh. 8. Furthermore, the victim in her deposition as well as cross-examination vide Exh. 10 have clearly stated that, the accused has taken her to the barren place and removed his clothes and molested her by putting hand on her chest and threatened to kill her mother and demanded to remove her

clothes, meanwhile the complainant came and rescued her. Moreover, the Ld. Adv. for the accused, despite detailed cross-examination, could not bring any contradictory facts on record. Further, in the present case, the victim has also made statement before the Magistrate as per Section 183 of BNSS, the victim has narrated face to face. Therefore, considering the statement of the victim u/s. 183 of BNSS at Exh. 11, she has clearly stated that, the accused has taken her to the barren place and abused her and removed his clothes and threatened her and demanded to remove his clothes, meanwhile the complainant came and rescued her. The PW 5, Medical Doctor has been examined vide Exh. 14, wherein it is stated that, the victim was brought before her on 10/09/2025 and the incident occurred on 30/07/2025. Therefore, it appears that, the victim was taken to the medical officer after two months of the incident regarding the injury over the hand and the PW 5 has stated no injuries on the hand of the victim. Further, the accused has taken defence that, the victim has sustained no injuries and looking to the medical evidences there are no internal or external injuries to the victim but considering judgments of Hon'ble Supreme Court and Hon'ble High Court of Gujarat, the defence regarding no injuries to the victim cannot be sustainable as the accused side have failed to prove that the victim has given consent, therefore, the defence taken by the accused side is not maintainable.

29. The IO has done the panchnamas and the panchas of

the panchnamas have supported the contentions of the panchnamas. Thus, to briefly summarize the entire evidence of the prosecution, the complainant, victim, parents and relative of the victim has supported the facts of the alleged offence. Apart from this, during the cross-examination of the police witnesses, no contradictory facts have come on record, therefore, the offence against the present accused has been proved by strong evidence.

30. Currently, the crime of physical abuse against the children is increasing very much and the state governments has to make all efforts to create public awareness in order to stop the crime of physical abuse of children in POCSO Act. Despite the recommendations of the Central Government, as the number of cases of physical abuse against children is increasing rapidly, the State Governments and the Central Government and other social welfare organizations have joined efforts to create mass awareness about the prevention of the crimes of physical abuse against the children. It is the opinion of this Court that as per Section 43 of POCSO Act, a copy of judgment should be sent to District Collector, Surendranagar, Commissioner of Police, Surendranagar and DLSA, Surendranagar, to take appropriate steps to spread awareness to prevent the crime of physical abuse against children.

31. Looking to the entire evidences on record, this Court considers that, the prosecutions has proved on record

on the basis of undoubted evidence that, the accused has committed offence under Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of the POCSO Act and for such anti-social activity no mercy can be shown to any person involved in a serious criminal act because the job of the Court is not to judge by sentiment or sympathy, but the Court has to judge the evidence presented before the Court properly within the limits of law. Thus, it is proved that, the accused has used criminal force on the victim, intending to insult, outrage and disrobe her modesty and kidnapped the victim after stalking her and removed his clothes and got naked and demanded and compelled the victim to remove her clothes and criminally intimidated the victim and breached the peace. Hence I answer **point no. 2 in affirmative.**

32. Thus, considering the overall evidences produced on record, the prosecutions has succeeded in proving that, the accused has used criminal force on the victim, intending to insult, outrage and disrobe her modesty and kidnapped the victim after stalking her and removed his clothes and got naked and demanded, compelled and threatened the victim to remove her clothes and criminally intimidated the victim and breached the peace, thereby committed the offence punishable under Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of the POCSO Act. Hence, for point no. 3, I pass the following order:-

Order

The accused is held **guilty** under Section 258(2) of BNSS (Sec. 235(2) of Cr.P.C.) and **convicted** under **Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of the POCSO Act** and opportunity is given to be heard regarding quantum of punishment.

Pronounced in the Open Court today on 11th day of March, 2026 at Dhrangadhra.

Date : 11/03/2026

Place: Dhrangadhra.

[Mukeshkumar Pratapbhai Chaudhari]

Special (Pocso) and 3rd Additional District Judge,
Dhrangadhra.

UID. No.GJ 00653

33. It has been argued by the Ld. A.P.P., Mr. P.B.Makwana that, in this case, the accused has been charged with serious offence i.e., under Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of POCSO Act and the accused has committed serious crime of stalking the victim and kidnapped her and taken to barren area and removed his clothes and got naked and demanded, compelled and threatened the victim to remove her clothes and criminally intimidated the victim and breached the peace. Further, it is argued that, the accused knowing that the victim is a minor committed sexual harassment on her, which is a grievous offence, whereas the age of the accused is 55 years. Therefore, the accused shall be convicted with maximum punishment and has prayed to provide just and proper compensation to the victim.

34. Heard the accused and the Ld. Adv. for the accused and he has argued that, the accused is poor and is of 55 years. There is no past antecedents of the accused, therefore, he should be given a minimum sentence to improve. Hence it is prayed for minimum punishment according to the date.

35. Considering the arguments of both the parties and looking to the evidence on record, though the accused was of age 55 years has stalked and used criminal force on the victim who is below 12 years of age and has compelled and threatened the victim to remove her clothes and breached the peace, therefore the seriousness of the offence is

increased and clearly depicts the cruel intentions of the accused. This Court believes that it is a serious type of offence and if the accused is not given proper punishment in such crime, wrong message will be sent in the society.

36. Thus, taking into consideration various factors as mentioned above, the age of the accused, age of the victim at the time of incident and the gravity of offence charged under Section 74, 75(1), 76, 78(2), 79, 137(2), 351(2), 352 of BNS and Sections 12 of POCSO Act. Furthermore, looking to the fact of the case, effect on the society at large and as per the provisions mentioned in BNS and POCSO Act under the Sections mentioned hereinabove, I find it just and proper to sentence the accused and hence, I pass the following order:-

Order of Punishment:

1. The accused **Babubhai @ Dogo Narshibhai Somabhai Purbiya, Age: 55 years, Occ.: Labour, R/o. Nr. Thakorvas, Valmikivaas, Ta. Patdi, Dist. Surendranagar** is **convicted** under Section 258(2) of BNSS (Section 235(2) of Cr.P.C.) and the punishment regarding the offences are mentioned hereinunder:
 - The accused is sentenced to rigorous imprisonment for one year under Section 74 of BNS and a fine of Rs. 5,000/- (Rupees Five Thousand Only) is imposed, if the accused defaults in paying the fine, a further simple imprisonment of six months be imposed.

- The accused is sentenced to rigorous imprisonment for three years under Section 137(2) of BNS and a fine of Rs. 2,000/- (Rupees Two Thousand Only) is imposed, if the accused defaults in paying the fine, a further simple imprisonment of three months be imposed.
- The accused shall undergo simple imprisonment for one year and a fine of Rs. 500/- for the offence under Section 351(2) of BNS and in default of payment of fine, one month simple imprisonment.
- The accused shall undergo simple imprisonment for six months and a fine of Rs. 500/- for the offence under Section 352 of BNS and in default of payment of fine, one month simple imprisonment.
- The accused is sentenced to rigorous imprisonment for five years under Section 76 of BNS and a fine of Rs. 5,000/- (Rupees Five Thousand Only) is imposed, if the accused defaults in paying the fine, a further simple imprisonment of one year be imposed.
- In respect of the offence under Section 11 of the POCSO Act, the accused shall be sentenced to rigorous imprisonment for three years under Section 12 of POCSO Act and a fine of Rs. 5,000/- (Rupees Five Thousand Only) is imposed, if the accused defaults in paying the fine, an

additional one year simple imprisonment be imposed.

2. The accused is convicted under Section 12 of the POCSO Act, for rigorous imprisonment for three years and under Section 76 of BNS for rigorous imprisonment for five years, therefore keeping in mind the provisions of Section 42 of the POCSO Act, i.e., "*Where an act or omission constitutes an offence punishable under this Act and also under sections 166A, 354A, 354B, 354C, 354D, 370, 370A, 375, 376, 2[376A, 376AB, 376B, 376C, 376D, 376DA, 376DB], 3[376E, section 509 of the Indian Penal Code or section 67B of the Information Technology Act, 2000 (21 of 2000)], then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under this Act or under the Indian Penal Code as provides for punishment which is greater in degree*" the accused is not required to be convicted separately for the offence under Section 75(1), 78(2), 79 of BNS (Sections 354A, 354D, 509 of Cr.P.C.).
3. It is recommended that the victim is liable for the compensation under Section 396 of BNSS (Section 357A of Cr.P.C.) and Section 33(8) of POCSO Act and Schedule 9(5) of Gujarat Victim Compensation Scheme – 2019 from the District Legal Service Authority, Surendranagar.

4. A copy of this judgment shall be sent to the Collector, Surendranagar and the Commissioner of Police, Surendranagar and DLSA, Surendranagar and as per Section 43 of POCSO Act, it is ordered to create public awareness and to take appropriate measures to prevent the crime of sexual exploitation against the children.
5. The accused shall serve punishment for all the above offences concurrently under Section 467 of BNSS (Section 427 of Cr.P.C.)
6. The sentence undergone by the accused as a prisoner shall be considered under Section 468 of BNSS (Section 428 of Cr.P.C.)
7. A copy of this judgment shall be given to the accused as per Section 404(2) of BNSS (Section 363(2) of Cr.P.C.).
8. Muddamal be destroyed after the completion appeal period.

Pronounced in the Open Court today on **11th** day of **March, 2026** at Dhrangadhra.

Date : 11/03/2026
Place: Dhrangadhra.

[**Mukeshkumar Pratapbhai Chaudhari**]
Special (Pocso) and 3rd Additional District Judge,
Dhrangadhra.
UID. No.GJ 00653

VM.Nair