

- 1 - Special Case (POCSO) 38/2025 (J)

	Received on	18.02.2025
	Registered on	20.02.2025
	Decided on	01.08.2026
	Duration	01 Y 05 M 14 D
	C.N.R.	MHSN010005962025
	Exhibit No.	
	<u>IN THE COURT OF THE SESSIONS JUDGE, SANGLI, AT SANGLI</u>	
	Presided over by : Smt. J. A. Mohanty	
	Date of Judgment – 01.08.2026	
	Special Case (POCSO) No. 38/2025	
	Crime No. 26/2025 Police Station – Umadi Police Station	
COMPLAINANT	The State of Maharashtra, through Police Station Officer, Umadi Police Station, Dist. Sangli	
REPRESENTED BY	Shri. P. A. Bhokare, D.G.P. for the State	
	Shri. T. R. Jamadar, Advocate the Complainant	
ACCUSED	Pandurang Somanna Kalli (Pujari) Age-45 yrs., R/o. Karajagi, Tal. Jath, District Sangli.	
REPRESENTED BY	Shri. S. T. Jadhav, Advocate for the Accused	
Date of Offence		06.02.2025
Date of FIR		06.02.2025
Date of Charge-sheet		18.02.2025
Date of Framing Charge		18.03.2025

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Date of commencement of evidence	09.05.2025
Date of which Judgment is reserved	01.08.2026
Date of Judgment	01.08.2026
Date of the Sentencing Order, if any.	--

Accused Details

Rank of Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offence charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of Sec.428 Cr.PC.
1	Pandurang Somanna Kalli (Pujari)	07.02.2025	UTP	U/s. 103(1), 65(2), 238, 127(2) of BNS and S. 4, 5(1), 6, 8 and 12 of POCSO Act	Convicted U/s. 103(1), 65(2), 238, 127(2) of BNS and S. 4, 5(1), 6, 8 and 12 of POCSO Act	As per final order	01 Year 05 Months 25Ds

PART - "C"

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

LIST OF PROSECUTION/ DEFENCE/ COURT

WITNESSES

A. Prosecution :

RANK	NAME	NATURE OF EVIDENCE
PW1	Anant Dattatray Nagargoje	Panch witness on spot panchanama
PW2	Grandmother of victim	Complainant
PW3	Cousin Sister of victim	Witness
PW4	Cousin Grandfather of victim	Witness
PW5	Sandip Tamma Salunkhe	Muddemal carrier
PW6	Rajendra Murgayappa Mali	Muddemal carrier

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PW7	Dr. Jincy V. L.	Medical Officer
PW8	Rajkumar Revappa Metri	Witness
PW9	Dr. Jishan Imtiyaj Sayyad	Medical Officer
PW10	Sandip Eknath Kamble	Primary Investigating Officer
PW11	Sunil Sadashiv Salunkhe	Investigating Officer
PW12	Namdeo Mohan Kalel	Muddemal Clerk Umadi P.S.
PW13	Pratibha Ramchandra Mali	Chemical Analyzer
PW14	Dr. Shashikant Ashok Wali	Medical Officer
PW15	Kaveri Sakharam Mote	Witness

B. Defence witnesses, if any : No witness examined by Defence.

RANK	NAME	NATURE OF EVIDENCE
	NIL	--

C. Court witnesses, if any : No witness examined by Court.

RANK	NAME	NATURE OF EVIDENCE
	NIL	--

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

No.	Exh. No.	Description
1	17/PW1	Letter of Tahsildar providing panch witness
2	18/PW1	Inquest panchanama
3	19/PW1	Label on deceased victim's yellow colour T shirt

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No.	Exh. No.	Description
4	20/PW1	Seizure panchanama of yellow colour T Shirt of deceased victim
5	21/PW1	Seizure panchanama
6	22/PW1	Label of iron/metalic trunk
7	23/PW1	Label on white colour sack
8	24/PW1	Label on Mat
9	25/PW1	Pink colour plastic bag
10	26/PW1	Blood gauze piece
11	27/PW1	A light purple colour slack
12	28/PW1	Brown colour underwear
13	29/PW1	Light pink colour shirt
14	30/PW1	Earth soil mixed with blood
15	31/PW1	Earth surface cotton swab
16	32/PW1	Earth soil
17	33/PW1	Hair found over Mat
18	34/PW1	T-shirt of light blue colour
19	35/PW1	Brown colour pant
20	36/PW1	Green colour underwear
21	37/PW1	Seizure panchanama
22	38/PW1	Spot panchanama
23	40/PW2	Complaint
24	41/PW2	Statement of Complainant U/s.183 of BNSS
25	43/PW3	Statement of cousin sister of victim U/s.183 of BNSS
26	46/PW4	Statement of cousin Grandfather of victim U/s.183 of BNSS
27	49/PW5	Letter dated 10.02.2025 for depositing muddemal in Forensic Lab for investigation
28	50/PW5	Acknowledgment Letter dated 10.02.2025 by Forensic Lab

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No.	Exh. No.	Description
29	51/PW5	Letter for forensic examination of muddemal dated 11.02.2025
30	52, 53A, 53B/PW5	Receipt of Forensic Laboratory
31	54/PW6	Letter sending samples for DNA analysis
32	58/PW7	Letter to M.O. Civil Hospital Miraj seeking post-mortem of deceased
33	59/PW7	Letter to M.O. for carrying out In Camera post-mortem
34	61/PW7	Post-mortem report
35	62/PW7	Cause of Death Certificate
36	63/PW7	Certificate regarding video recording of autopsy procedure of deceased
37	64/PW7	Letter to M.O. for opinion regarding death of deceased victim
38	65/PW7	Opinion regarding death of deceased victim
39	66/PW7	Envelope containing memory card
40	70/PW10	Letter seeking panch witnesses to Tahsildar
41	71/PW10	Hand sketch of spot of incident
42	72, 73/ PW10	Muddemal receipts
43	74, 75, 76 /PW10	Station General Diary Details
44	78/PW11	Letter for pre-arrest medical examination of accused
45	79/PW11	MLC paper of accused
46	80/PW11	Seized muddemal receipt of clothes of accused
47	81/PW11	Letter to M.O. Jath for medical examination of accused
48	82, 83/PW11	Letter for recording statements of complainant and witnesses as per S. 183 of BNSS

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No.	Exh. No.	Description
49	84/PW11	Letter to M.O. seeking DNA sample of accused
50	85/PW11	Letter seeking technical information about mobile phone
51	86/PW11	Letter seeking 65B Certificate
52	87 to 89/PW11	Light bill, Extract 8, 8A, 7/12 extract of spot of incident
53	90/PW11	Letter to Gramsevak Karajgi seeking Birth Certificate of deceased victim
54	93/PW11	Birth Certificate of Victim
55	94/PW11	Letter to Gramsevak Karajgi seeking Death Certificate of deceased victim
56	95/PW11	Death Certificate of victim
57	109/PW12	Register entry regarding sending muddemal to Forensic Lab
58	110/PW12	Duty batawada
59	114,115/PW12	Verified copies of CM-24 Form and identification form
60	116,117/PW12	Verified copies of letters received from Biology Department, Kolhapur
61	131/PW14	Entry in MLC register regarding handing over sample for medical examination
62	152/PW15	Log sheet of vehicle MH-10-EE-2417 of Umadi Police Station
63	155/PW15	Entry of Government vehicle in Log sheet

B1. Defence :

Sr.No.	Exhibit Number	Description
1	Nil	Nil

B2. Documents admitted by defence Advocate :

Sr.No.	Exh. No.	Description
1	--	--

C. Court Exhibits :

Sr.No.	Exh.	Description
1	97	Forensic examination report of samples of deceased victim
2	98	Forensic examination report of seized muddemal
3	99	Forensic examination report regarding sternum of deceased victim and blood sample of accused
4	100	Forensic examination report of samples of deceased victim
5	101	Forensic examination report of samples of accused
6	102	Forensic examination report of seized muddemal

D. Material Objects :

Sr.No.	Exhibit Number	Description
1	Article A/PW1	Photographs
2	Article R/PW1	Photographs of incident spot of offence
3	Article U/PW7	Video Recording

J U D G M E N T
(Delivered on 01.08.2026)

1. The prosecution imputes the accused for the offences punishable under Sections 103(1), 65(2), 238, 127(2) of the Bharatiya Nyaya Sanhita, 2023 (in short

‘BNS’) and Sections 4, 5(l), 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 (‘POCSO Act’).

AN OUTLINE OF THE PROSECUTION CASE:

2. The story of the prosecution in brief is that complainant is the grandmother of the victim who stays along with her husband Raju, mother-in-law Fatima, son Usman, daughter-in-law Shabana and younger son Farukh and his wife Ayesha. Deceased victim was daughter of complainant’s younger son who is having two daughters including victim. The wife of the said younger son of complainant had gone to her parental house at Mudhol four months prior to the incident in question i.e. 06.02.2025 for her delivery, and the said younger son of complainant had gone to Ratnagiri for work six months prior to the incident in question i.e. 06.02.2025. At the relevant time of the incident, victim was four years old, and she was residing along with the complainant.

3. On 06.02.2025 at about morning 8:30 hours husband of the complainant went to work. Complainant’s son Usman and his wife Shabana went to the Hospital at Jath. On the said date, complainant along with her daughter Jaitun, Grandson Umar and

Granddaughter/victim were at home. Victim was playing outside of the home and complainant was doing household work at home. Complainant went out to look for victim as she had to send her to school but she could not find her hence, she searched for her in neighbourhood and in the Karajagi Village however, she had gone missing. In the afternoon 12:00 hours, complainant called the Sarpanch namely Pattaneshetti of Karajagi village and informed him that the victim was missing and accordingly, he had made call to Umadi police station in the presence of the complainant. In pursuance to that, in the afternoon 1:00 hours Police had come to Karajagi village. Brother-in-law of the complainant namely Chand was with police. Chand had made search of the victim along with police. At the said relevant time, complainant was at home. In the afternoon 1:45 hours, Chand had come to the complainant and informed her that he had made search of victim everywhere, accused was sleeping under almond tree and he got scared by seeing police which created suspicion and hence, they had opened the door of accused's house and his house was in a mess, there were blood stains and there were stains on the side of iron/metallic trunk, they had opened the said iron/metallic trunk and inside the said iron/metallic trunk there was one sack and inside the

said sack, dead body of victim was found, the blood was oozing out from the victim's urinary area (पांडुच्या घरातील साहित्य अस्ताव्यस्त पडले होते आणि तेथे रक्ताचे डाग पडले होते, तेथे असलेल्या पेटीच्या बाजूलाही लाल रंगाचे डाग पडले होते, त्यानंतर पोलीस आणि चांदने ती पेटी उघडली, त्या पेटीमध्ये एक पोते होते आणि त्या पोत्यामध्ये पिडीतेचा मृतदेह होता, पिडीतेच्या लघवीच्या ठिकाणाहून रक्त येत होते). Chand had taken the complainant to accused house, she had seen the dead body of the victim in the sack. The complainant had come out when police were doing panchanama and she kept crying. Police had sent the dead body of the victim to the hospital. Accused was responsible for the death of the victim and hence, the complainant had filed complaint against him. At the time of lodging the complaint, Khaja Maktum Shaikh was with the complainant. After four days of lodging complaint, complainant had recorded her statement before the learned J.M.F.C., Jath under Section 164 of the Code of Criminal Procedure, 1973 ('Cr.P.C.)/ Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The complainant had seen blood stains over the shirt of the accused and when she enquired about the same with the accused, he had stated to her that it was due to injury caused by sickle (त्याने कोयता लागला असे सांगितले). Based on the complaint lodged by the complainant offences punishable under Sections 103(1), 238, 65(2), 127(2) of BNS and Sections 4, 5(i), 6, 8, 12 of POCSO Act got

registered vide C.R. No. 26 of 2025 with Umadi Police Station and the investigation was carried on by Deputy Superintendent of Police ('DYSP')/PW-11 Shri. Sunil Sadashiv Salunkhe by oral order of Superintendent of Police, Sangli.

4. At the outset, the initial investigation of the present crime was carried out by PW-10/API Sh. Sandip Kamble on 06.02.2025 who had given an oral order for search of the missing victim in pursuant to the phone call received by Police Naik Mashal from village Karajagi's Sarpanch namely Channappa Pattanshetty on the said date i.e. 06.02.2025 at about afternoon 1:00 hours and then he also went to the village Karajagi in 15 minutes. He made enquiry about missing victim with relatives of the victim and mother of accused namely Rakhamabai Kalli who had told him that she had seen victim at morning 10:00 hours. Then, at about afternoon 01:40 hours he made enquiry with Chandbadsha/PW-4 and asked about the house of accused's mother and immediately went towards her house wherein, he saw accused was sleeping under almond tree, he had tried to wake him up but it seemed he was mocking as if he was sleeping which created suspicion on accused's said conduct and then he along with PW-4 went inside accused's house, where there

was one mat (चटई) and over the said mat one iron/metallic trunk and over the said mat and on the side of said mat there were blood stains, he opened the said iron/metallic trunk in the front of PW-4 which was having inside one white colour sack (पांढ-या रंगाचे पोते) and from the said white colour sack two small legs were coming out, they had opened the said sack in which he found one dead body of a small girl, the blood was oozing out from the private part of the said small girl (लघवीच्या जागेतून रक्तस्राव होत असल्याचे दिसले), PW-4 identified the said small girl as the missing girl i.e. victim hence, he had called police staff who were doing search of the said missing girl i.e. victim. The accused had tried to flee from there but was caught by PW-10 and taken into custody and then he had made enquiry with him, but he was not answering properly (मी हरवलेल्या मुलीच्या शवाबद्दल विचारले असता त्याने उडवाउडवीची उत्तरे दिली). Then PW-10 had given custody of accused to Police Constable Potbare and asked him to take accused to police station. As the case was sensitive, he had informed about the same to his senior Police Officer and called additional police staff on the incident spot. Then, he had sent letter to Additional Tahsildar Sankh for getting Government panchas (Exh.70) and accordingly in the presence of panchas inquest panchanama was carried out by him (Exh.18). He had sent the dead body

of the victim for post-mortem to the Civil Hospital by filling up form II. He had taken out the yellow T-shirt of dead body of the victim to verify injuries, if any, in the presence of panchas and handed over the said yellow T-shirt to lady Head Constable Mote and carried out seizure panchanama (Exh.20). Then, he had carried out spot panchanama along with hand map (Exh.21 and Exh.71 respectively) and snapped photo (Article 'A') in the presence of panchas and seized Articles 'B to N' from the incident spot and deposited the same with muddemmal clerk of police station vide muddemmal receipts (Exh.72 and Exh.73). Then, he recorded FIR of complainant/grandmother of deceased victim i.e. PW-2 (Exh.40).

5. Then, considering the gravity of the present crime, the investigation was transferred to PW-11/I.O. wherein he had made enquiry with the accused and then, pre-arrest medical examination of the accused (Exh.79) was done at Madgyal Health Centre by sending letter for the same (Exh.78), accused was arrested on 07.02.2025 at morning 2:02 hours vide Arrest Panchanama (Exh.2). He had enquired with the accused about the clothes worn by him at the time of offence in which accused stated to him that the clothes worn by him on his body was the one wore by him at

the time of offence. He had made arrangement of alternate clothes for the accused and then carried out accused's clothes seizure panchanama in the presence of two panchas (Exh.37). Then, the said accused's clothes were deposited with muddemmal clerk at police station vide muddemmal receipt (Exh.80). He had identified the said accused seized clothes as Article O, P, Q. He had collected advance death certificate of the deceased victim. The accused was produced before the Court and then, accused's medical examination was done and collected samples of the accused vide sending letter to Rural Hospital on dated. 07.02.2025 (Exh.81). He had collected medical certificate of the accused from medical officer at Rural Hospital. On 08.02.2025 he had recorded statements of witnesses. On 09.02.2025, he had recorded statement of the accused and mother of the accused. On 10.02.2025, he had sent muddemmal for chemical analysis through Police Constable Keraba Chavan and Sandip Salunkhe (Exh.54) although Article A and B (परिशिष्ट अ आणि ब) was having deficiency and hence, the said articles were returned. Article A (परिशिष्ट अ) was having all the samples mentioned in one page however, the chemical analysis needs to be done at different places and thus it has to be mention on different pages was necessary, and Article B (परिशिष्ट ब) was not having seal of Medical Officer therefore, the

said Articles/muddemmal were returned. He had got the said deficiency of Article A (परिशिष्ट अ) done from Dr. Thorat of Civil Hospital Miraj and got deficiency of Article B (परिशिष्ट ब) done from Rural Hospital Jath and then submitted the same for chemical analysis. On 12.02.2025, he had sent DNA samples through Police Constable Mali. He had identified photographs of spot which were snapped by him (Article R) and spot panchanama (Exh.38). On 13.02.2025 he had done communication with doctor at Miraj Civil Hospital through letter and accordingly he had received reply. On 10.02.2025, he had sent letter for recording statement under Section 183 of BNSS (Exh.82, Exh.83). He recorded statements of witnesses. On 11.02.2025 he had sent letter for getting DNA samples to medical officer (Exh.84) and also sent letter to Superintendent of Police Sangli for getting information about technical information about the mobile (Exh.85). On 15.02.2025, he had sent letter for getting certificate under Section 65B of the Indian Evidence Act, 1872/Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 ('BSA') to the Superintendent of Police Sangli from Nodal Officer (Exh.86). He had filed on record electricity bill, Gavnamuna 8 (Exh.87), Gavnamuna 8A (Exh.88), 7X12 extract (Exh.89) of incident spot. He had filed on record birth certificate of deceased victim from

Gramasevak Karajagi vide letter (Exh.93, Exh.90). He had sent letter to Gramsevak Karajagi for getting death certificate of victim (Exh.94, Exh.95).

6. After the completion of the investigation the Charge-sheet was filed before the Court under Section 193(3) of BNSS, upon which cognizance was taken against the accused under Section 210(1)(b) of BNSS.

7. My learned predecessor had framed charge below Exh.07 against accused for the offences punishable under Sections 103(1), 65(2), 238, 127(2) of BNS and Sections 4, 5(l), 6, 8, 12 of POCSO Act. On charges being read over and explained to the accused in vernacular by my learned predecessor, he pleaded not guilty and claimed to be tried and in his personal examinations under Section 351 of BNSS he denied all the allegations and stated that he had not committed any offence.

8. To discharge its burden prosecution has examined 15 witnesses to bring home the charge against the accused. Whereas the accused has not led any defence in his favour and was in total denial.

9. Heard learned DGP Shri. P. A. Bhokare for the prosecution and learned Advocate Shri. S. T. Jadhav

for the accused. Perused the evidences brought on the Court record and written argument filed below Exh.142 by the learned Advocate for the complainant Shri. T. R. Jamadar.

10. In view of the core of the prosecution case, following points arise for my determination. I have recorded my findings with reasons thereon.

Sr.	POINTS	FINDINGS
1.	Does the prosecution prove that on 06.02.2025 victim girl was minor ?	In the affirmative
2.	Does the prosecution prove the death of minor victim girl on 06.02.2025 is a homicidal ?	In the affirmative
3.	Does the prosecution prove that on 06.02.2025, during period between 10:30 hours to 13:30 hours in the house of accused i.e. village- Mouje Karajagi, Tal. Jath, Dist. Sangli, when informant's granddaughter i.e. minor victim girl and witness were playing in front of complainant's house, accused took victim girl in his house, committed rape on her and committed murder intentionally causing the death of victim	In the affirmative

Sr.	POINTS	FINDINGS
	girl by causing severe injuries to her private parts and thereby committed an offence punishable under Section 103(1) of the Bharatiya Nyaya Sanhita, 2023 ?	
4.	Does the prosecution prove that on aforesaid date, time and place accused committed rape on complainant's grand daughter i.e. minor victim girl who is under twelve years of age and thereby committed an offence punishable under Section 65(2) of the Bharatiya Nyaya Sanhita, 2023 ?	In the affirmative
5.	Does the prosecution prove that on aforesaid date, time and place accused knowing or having reasons to believe that the offence of murder of complainant's granddaughter i.e. minor victim girl has been committed by him, caused certain evidence connected with the said offence i.e. dead body of the victim girl, he put dead body in sack and put the sack in iron trunk and attempted to disappear it, with intention to screen him from legal	In the affirmative

Sr.	POINTS	FINDINGS
	punishment and thereby committed an offence punishable under Section 238 of the Bharatiya Nyaya Sanhita, 2023 ?	
6.	Does the prosecution prove that on aforesaid date, time and place accused wrongfully confined to complainant's granddaughter i.e. minor victim girl in his house and thereby committed an offence punishable under Section 127(2) of the Bharatiya Nyaya Sanhita, 2023 ?	In the affirmative
7.	Does the prosecution prove that on aforesaid date, time and place accused committed sexual intercourse with the granddaughter of the complainant i.e. victim girl who was child accordingly, accused have committed penetrative sexual assault on victim girl and thereby committed an offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 ?	In the affirmative
8.	Does the prosecution prove that on aforesaid date, time and place accused committed sexual intercourse with the	In the affirmative

Sr.	POINTS	FINDINGS
	granddaughter of complainant i.e. victim girl who was child, causing grievous hurt to private parts of victim girl, accordingly accused have committed aggravated penetrative sexual assault on victim girl and thereby committed an offence punishable under Section 5(l), 6 of the Protection of Children from Sexual Offences Act, 2012 ?	
9.	Does the prosecution prove that on aforesaid date, time and place accused committed sexual intercourse with the granddaughter of complainant i.e. victim girl who was child, accordingly committed with her sexual assault and sexual harassment and thereby committed an offence punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ?	In the affirmative
10	What offences ? if any	As per final order
11	What order ?	As per final order

: REASONS :

POINT NOS.1 TO 11 :

11. The prosecution has examined the complainant/grandmother of victim as PW-2 who had supported the prosecution story. She remained unrebutted in her cross-examination. The learned Advocate for the accused has tried to bring on record omission made by PW-2 from her complaint wherein she had not stated that '*she had seen the dead body of victim in sack*' however, the statement of PW-2 recorded by the police has mention in that '*she had seen the dead body of victim in the house of accused*' (मी पांडुरंग कळ्ळी याचे रहाते पत्र्याच्या घरामध्ये जाऊन पाहीले असता माझी नात ही मला मयत अवस्थेत दिसली). The learned Advocate for the accused has also tried to bring on record contradictions made by PW-2 from her statement recorded under Section 183 of BNSS wherein, she had stated that '*she had seen house of accused but victim was not found by her*' (मी आरोपीचे घर पाहीले परंतु, पिडीता मिळाली नाही) *and while doing search of victim she had made enquiry with the accused about the blood stain seen by her on accused shirt in which he stated to her that it was caused due to sickle*' (पिडीतेचा शोध घेत असताना आरोपीच्या शर्टवर असलेल्या रक्ताच्या डागाबाबत विचारणा केली होती) however,

the said statements are not made in the complaint lodged by her. It is to be noted herein that simply leaving out a detail in an earlier statement is not a contradiction, it only becomes one if the omitted fact is so crucial and contextually relevant that failing to mention it amounts to asserting the opposite. Further, if the core narrative i.e. genesis and manner of the incident is heavily contradicted or if oral testimonies contradict established medical or forensic evidence, the entire case of the prosecution may collapse. In the instant case, PW-2 being a grandmother of deceased victim who was having lawful custody of victim in the absence of victim's parents establishes the circumstance of natural variation or slight memory lapse in statement made after such atrocious incident wherein she was going through unbearable pain and suffering from the loss of 4 years old granddaughter which does not destroys the credibility of PW-2. Although, it is to be noted herein that Chemical Analysis Examination Report (Exh.98) shows the result of "*Male haplotypes obtained from Ex.3 plastic mat, and Ex.16S Semen stain from half T shirt, Ex.1 Vaginal swab of victim in DNAK-225/2025 matched with male haplotypes obtained from Ex.2 blood of accused/Pandurang Somnath Kalli in DNAK-121/2025*". The said Chemical Analysis Examination Report (Exh.98) clearly shows

that male haplotypes obtained from plastic mat (चटई), semen stain from half T-shirt of deceased victim, vaginal swab of deceased victim getting matched with haplotypes obtained from blood of accused corroborates the prosecution story of forceful sexual assault which resulted in the cause of death of minor victim by the accused. Similar view is laid down by the Hon'ble Supreme Court of India in the case of **“Rohtash Kumar Vs. State of Haryana, 2013 CRI. L. J. 3183”**, wherein it was held in para No.18 that,

18. It is a settled legal proposition that while appreciating the evidence of a witness, minor discrepancies on trivial matters which do not affect the core of the case of the prosecution, must not prompt the Court to reject the evidence in its entirety. Therefore, unless irrelevant details which do not in any corrode the credibility of a witness should be ignored. The Court has to examine whether evidence read as a whole appears to have a ring of truth. Once the impression is formed, it is undoubtedly necessary for the Court to scrutinize the evidence more particularly keeping in view the deficiencies, drawbacks and infirmities pointed out in the evidence as a whole and evaluate them to find out whether it is against the general tenor of the

evidence given by the witnesses and whether the earlier evaluation of the evidence is shaken, as to render it unworthy of belief.

12. To prove the last seen theory i.e. victim was last seen alive in the presence of the accused, the prosecution has examined minor cousin sister of deceased victim as PW-3 who had supported the prosecution story. She deposed that her school timings were from morning 10:30 hours to evening 5:30 hours. She was playing with the victim, and they had gone to house of the accused Pandu Chacha to eat almond, then she was called by her mother and on hearing the voice of her mother, she went to her home. She further deposed that the victim and the accused Pandu Chacha were at almond tree. On 08.02.2025, police had recorded her statement at her home in the presence of her mother. She had identified accused produced on Video Conferencing ('VC') screen from the concerned jail as Pandu Chacha. She remained unrebutted in her cross-examination. In her cross-examination by the learned Advocate for the accused, she deposed that she leaves for her school at morning 10:00 hours and deceased victim was studying at Anganwadi. The learned Advocate for the accused has tried to change the incident spot from almond tree to tamarind tree

however, the suggestion put by him was clearly denied by the PW-3. The learned Advocate for the accused has also put suggestion to PW-3 that there was no road behind the house of PW-3 however, she clearly deposed that there was small road in existence. She deposed that on the date of incident there was no other children playing with them. She had clearly denied the suggestion that she was tutored by her mother and grandmother for recording her statement before the police and before the Court. It is to be noted herein that it is neither the defence of the accused that almond tree was not in existence at the incident spot/accused's house nor PW-3 had not come along with the victim on the morning hours at the said incident spot on the date of incident in question for eating almond. While consideration of the testimony of the said 8 years old child witness i.e. PW-3, it appears to this Court that PW-3's testimony is free from tutoring, consistent with respect of the facts of the instant case and found credible and reliable.

13. To further support the last seen theory, the prosecution has examined Sh. Chandbasha Maktum Jatgar as PW-4 who had supported the prosecution story. He deposed that he was residing at Karajagi along with his father Makdum, his two mothers namely

Pirama and Goravva, his wife Muskan, his brother Saddam, his sister-in-law Samini and their children. Farukh was working at Ratnagiri, Ayesha is wife of Farukh and they were having a girl child i.e. deceased victim. Four months before the incident in question, wife of Farukh went to parental home at Mudhol for her delivery. Victim was residing behind PW-4's home along with her grandmother/complainant. PW-4 knows accused Pandurang as he was residing behind his home, he identified accused on VC screen in the Court. He deposed that on 06.02.2025 i.e. date of incident in question, he had seen accused at Jinoddi Darga in the morning 6:30 hours when he was going for work at Shikhur Mistri's farm field wherein, he had asked the accused where he was going, in which he replied to him that he was returning to his home as his work got cancelled. On the said date at morning 10:00 hours, when he was going from farm field of Shikhur Mistri to his house for keeping lunch box he had seen victim and accused near to almond tree which is on the front of the accused's house (त्यावेळी पिडीता आणि पांडुरंग कळली हे पांडुरंग कळली याच्या घराच्या समोरील बदामाच्या झाडाजवळ पाहीले होते). Thereafter, he had again gone to farm field of Shikhur Mistri for watering and returned on the said date at afternoon 1:30 hours and he saw people gathered at the house of Farukh. Then he got to know from

Banu/complainant that victim was missing. He further deposed that he had made search of victim along with police, during the search when they came in front of the accused, he was sleeping under an almond tree and he got scared seeing police and PW-4 which created suspicion and they went inside accused's house, accused's house was in mess, there was blood stains on surface, there was stains on the side of iron/metallic trunk, they had opened the said iron/metallic trunk, inside the said iron/metallic trunk there was one white colour sack and inside the said white colour sack dead body of victim was there, the blood was oozing out from the victim's urinary area. Accused was taken into custody by the police and took him to police station. Then, police had carried out panchanama and then dead body of victim was sent to Jath Government Hospital, and as asked by the doctor, dead body of victim was further taken to Miraj Civil Hospital wherein, post-mortem of victim's dead body was conducted.

14. PW-4 remained unrebutted in his cross-examination. The learned Advocate for the accused failed to bring on record any material discrepancies or omissions of PW-4 and also, failed to bring on record any criminal intention and motive to depose untruthful

against the accused. It is to be noted herein that merely being a relative of a victim does not automatically make a witness untruthful. The testimony of PW-4 was substantially corroborated by PW-1/panch witness. It is to be further noted herein that the subsequent conduct of the accused after the commission of offence wherein he got scared seeing police and PW-4 is admissible and relevant corroborative evidence under Section 6 of the Bharatiya Sakshya Adhiniyam, 2023 ('BSA') which creates doubt on his innocence. Further, the recovery of dead body of the victim in white colour sack inside iron/metallic trunk, blood stains on polythene bag found inside the said iron/metallic trunk, blood stains on surface, blood stains on plastic mat (चटई), blood stains on light pink colour shirt, blood stain on yellow colour T-shirt of deceased victim etc. from the house of accused and corroborated by scientific evidence wherein, Chemical Analysis Examination Report (Exh.98) shows result that "*Mixed DNA profile obtained from Ex.3 plastic mat, Ex.16S Semen stain from half T shirt matched with DNA profile obtained from Ex.2 blood of accused/Pandurang Somanna Kalli, and Female DNA profiles are obtained from Ex.9B blood stain cuttings from underwear, Ex.11 blood stain cuttings from full shirt matched with DNA profile obtained from Ex.1 sternum of victim*". The said facts

and circumstances are consistent only with the hypothesis of the guilt of the accused.

15. Furthermore, to support the last seen theory, the prosecution has examined Sh. Rajkumar Revappa Metri as PW-8 who had supported the prosecution story. He deposed that he was residing in Karajagi village in the past 2 years prior to the incident in question. On 06.02.2025 i.e. the date of incident in question at morning 09:30 hours he was doing levelling work at farm field of person namely Koli. The house of accused is near to the said farm field of Koli and there is an almond tree opposite to his house. On the said date i.e. 06.02.2025 at about morning 10:00 to 10:15 hours, he had seen accused sitting and one girl was eating almond opposite to accused house (साधारणतः सकाळी १०.०० ते १०.१५ दरम्यान मी पाहीले की पांडुरंग कळ्ळी बसलेले होते आणि एक मुलगी कळ्ळीच्या घरासमोर बदाम खात होती). PW-8 had identified the accused on VC and also identified victim from the photo showed to him by the prosecution as the same girl. In his cross-examination by the learned Advocate for the accused, he deposed that on east side of the said farm field there is road and houses of Jatgar, the accused's house was at distance of 20 foot from farm field of Koli and almond tree was at distance of 60-70 foot from farm field of Koli, the house of accused

is of metal tin shed (पत्र्याचे). The said fact corroborates the prosecution story that there was a road, accused's house was of metal tin shed (पत्र्याचे) and in the front of accused's house there was an almond tree. The learned Advocate for the accused has failed to bring on record any material discrepancies in the testimony of PW-8. It is to be noted herein that discrepancy in stating the distance of the almond tree from farm field of Koli and accused's house from farm field of Koli does not affect the prosecution case materially and does not create any infirmity. However, the prosecution has successfully proved that the accused was the last person seen with the victim alive on the date of incident in question at about morning 10:00 to 10:15 hours by PW-8.

16. Thus, while consideration of the testimonies of PW-3, PW-4 and PW-8 the prosecution has undoubtedly and successfully demonstrated the two primary facts i.e. the accused was the last person seen with the victim alive, and the time gap between this sighting and the victim's death was so small that no other person could have realistically intervened. Once the prosecution successfully proves the accused was the last person seen with the victim, the burden shifts to the accused to explain how and when they parted ways. In the instant case the last seen theory is coupled with the

recovery of dead body of the victim from the accused's house being in very close proximity of time, the accused owes an explanation under Section 109 of the Bharatiya Sakshya Adhiniyam, ('BSA') with regard to the circumstances under which death of victim may have taken place. However, the accused failed to discharge the said burden and to prove his innocence by any cogent evidence wherein he failed to offer any explanation and there is corroborative evidence available inter alia in the form of recovery of dead body from his house and also, otherwise forming a chain of circumstances leading to the only inference for guilt of the accused, incompatible with any possible hypothesis of innocence, conviction can be based on the same, similar views is laid down by the Hon'ble Supreme Court of India in the cases of **Rohtash Kumar (Supra)** and "**Surajdeo Mahto and another Vs. State of Bihar, AIR 2021 SUPREME COURT 3643**" wherein it was held in para No.30 that;

'30. We may hasten to clarify that the fact of last seen should not be weighed in isolation or be segregated from the other evidence led by the prosecution. The last seen theory should rather be applied taking into account the case of the prosecution in its entirety. Hence, the Courts have

not only consider the factum of last seen, but also have to keep in mind the circumstances that preceded and followed from the point of the deceased being so last seen in the presence of the accused.'

17. Further, as per the ratio laid down by the Hon'ble Supreme Court of India in the case of **"Jayantilal Verma Vs. State of Madhya Pradesh (now Chhattisgarh), (2021) 12 Supreme Court Cases 71"**, the accused failed to provide plausible explanation of possibility of somebody from outside coming and committing forceful sexual assault on victim which resulted in her death and concealment of the body of the victim in the accused's house in white colour sack kept inside the iron/metallic trunk. It is not the case of accused that at the relevant time of incident he was not in possession of the said house wherein the dead body of victim was found by the police and the said seized muddemmal i.e. white colour sack and iron/metallic trunk was not part of the household articles of the said accused's house i.e. incident spot.

18. Furthermore, the Hon'ble Supreme Court of India in the case of **"Jagroop Singh Vs. State of Punjab, (2012) 11 Supreme Court Cases 768"** held in para

No.35 that;

‘36. Another aspect is to be taken note of. Though the incriminating circumstances which point to the guilt of the accused had been put to the accused, yet he could not give any explanation under Section 313 of the Code of Criminal Procedure except choosing the mode of denial. In State of Maharashtra v. Suresh, it has been held that when the attention of the accused is drawn to such circumstances that inculpated him in the crime and he fails to offer appropriate explanation or gives a false answer, the same can be counted as providing a missing link for completing the chain of circumstances. We may hasten to add that we have referred to the said decision only to highlight that the accused has not given any explanation whatsoever as regards the circumstances put to him under Section 313 of the Code of Criminal Procedure.’

19. It is to be noted herein that in statement recorded under Section 351 of BNSS, accused admitted in question No. 41 that “*she/complainant grandmother of victim knows me previously*”, the said fact impliedly indicates that she also knows the accused’s house being her neighbour which is his dwelling house. In the

instant case, there is strong circumstance indicating that accused is responsible for commission of the crime in question and he is under an obligation to give a plausible explanation regarding the same in his statement recorded under Section 351 of BNSS and mere denial could not be the answer in such a situation, thus, in view of discussion the ratio laid down by the Hon'ble Supreme Court in the case of "**Kattavellai @ Devakar Vs. State of Tamilnadu, AIR Online 2025 SC 667**" is not applicable to the instant case. However, it is imperative to mention herein the ratio laid down by the Hon'ble Supreme Court of India in the case of "**Uma & Anr Vs. The State Rep. By The Deputy Superintendent of Police, in Criminal Appeal No. 757 of 2015**" wherein it was held that the standard of proof expected to prove in such case based on circumstantial evidence is lesser than other cases of circumstantial evidence.

20. The line of defence argued by the learned Advocate for the accused that PW-4 is not believable witness whose presence was allegedly seen on two places at the same time which is not possible and pointed out that PW-1/panch deposed in his testimony that incident spot was showed by PW-4 and the same has been mentioned in the spot panchnama (Exh.21) which bears signature of PW-4 as person showing

incident spot, the timing of spot panchanama was from 16:20 hours to 18:55 hours on dated. 06.02.2025 i.e. date of incident in question. Further, the letter (Exh.59) shows that PW-4 had wrote the said letter and he was along with dead body of victim and he reached Rural Hospital Jath at 6 pm on 06.02.2025. Therefore in consideration of the said argument of the learned Advocate for the accused, this Court made careful cautious endeavour to evaluate the evidence of PW-4 with PW-10 and the said disputed spot panchanama wherein, it appears that *'PW-10 had made enquiry with PW-4 at about afternoon 01:40 hours and asked about the house of accused's mother and immediately went towards her house wherein, he saw accused was sleeping under almond tree, he had tried to woke up accused but he was mocking as if he was sleeping which created suspicion on his said conduct and then he along with PW-4 went inside accused's house and thereon PW-10 and PW-4 had been to the incident spot and there was one mat (चटई) and over the said mat one iron/metallic trunk was there, over the said mat (चटई) and on the side of the said mat (चटई) there was blood stains, he opened the said iron/metallic trunk in the front of PW-4 which was having inside one white colour sack (पांढऱ्या रंगाचे पोते) and from the said white colour sack two small legs were coming out, they had opened*

the said sack in which he found one dead body of small girl, the blood was oozing out from the urinary area of the said dead body of small girl (लघवीच्या जागेतून रक्तस्राव होत असल्याचे दिसले), PW-4 identified the said small girl as the missing girl i.e. victim hence, he had called police staff who were doing search of the said missing girl i.e. victim. The accused was trying to flee from there whom PW-10 caught and taken into custody with whom he had made enquiry but he was not answering properly. The accused custody was given by PW-10 to Police Constable Potbare for taking him to police station and as the case was sensitive, he had informed about the same to his senior and called additional police staff on the said incident spot. Then, PW-10 had sent letter to Additional Tahsildar Sankh for getting Government panchas (Exh.70) and accordingly in the presence of panchas inquest panchanama was carried out by him (Exh.18) and he had sent the dead body of victim for post-mortem to Civil Hospital by filling up form II, he had taken out yellow T-shirt of dead body of victim to verify the injuries, if any in the presence of panchas and handed over to Lady Police Head Constable K. S. Mote and carried out seizure panchanama (Exh.20), and he had carried out spot panchanama along with hand map (Exh.21 and Exh.71 respectively) and snapped photo (Article 'A') in the presence of panchas'. The said entire

stated facts shows that the incident spot was seen for the first time by PW-10 and PW-4 together, further the spot panchanama shows that it bears signature of PW-10 and has contents that after removing yellow T-shirt of dead body of victim, he carried out inquest panchanama, immediately dead body of victim was sent to hospital (तिच्या अंगावर पिवळ्या रंगाचा टी शर्ट असून तो काढून LPHC/1915 के.एस. मोटे यांचे ताब्यात दिला आहे त्यानंतर लगेच इन्क्वेस्ट पंचनामा करून पुढील कारवाई करिता बालीकेचा मृतदेह हॉस्पिटलमध्ये पाठवण्यात आलेला आहे) which shows that PW-4 was along with the dead body of victim to the hospital after showing the incident spot. Thus, in view of ratio laid down by the Hon'ble High Court of Judicature At Bombay (Nagpur Bench) in the case of “**Jaspalsing Charansing Saini & Ors Vs. State of Maharashtra, 2007 ALL MR (Cri) 2155**”, the said discrepancy of timings of PW-4 cannot be treated as fatal to the prosecution story which do not affect the prosecution case materially and does not create any infirmity when death of the victim is a non-disputed fact.

21. Thus, the reliance placed by the learned Advocate for the accused in the ratio laid down in para Nos. 18, 19, 20 by the Hon'ble Supreme Court of India in the case of “**Ashish Jain Vs. Makrand Singh, AIR 2019 SUPREME COURT 546**” is not applicable to the

instant case and not applicable to the testimony of PW-4. The learned Advocate for the accused also raised suspicion on investigation carried out by PW-10 wherein, the arrival of forensic team from Sangli to the incident spot at 14:45 hours for carrying out inquest panchanama which according to him was not possible considering the distance and requisite time to travel however, the said fact does not go into the root of the fact-in-issue and hence cannot be treated as fatal to the prosecution story. It is to be noted herein that the death of victim is an admitted fact and hence, mere suspicion on timings of arrival of panchas, forensic team etc which are procedural defects of investigation per se which would not endure to the benefit of the accused. Similar view is laid down by the Hon'ble Supreme Court of India in the case of **"Dayal Singh and Others Vs. State of Uttaranchal, (2012)8 Supreme Court Cases 263"**, wherein it was held in Para No.27 that *'5. in the case of a defective investigation the Court has to be circumspect in evaluating the evidence. But it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designed defective'*. It is to be further noted herein the ratio laid down by the Hon'ble Supreme Court of India in the case of **"Dhanaj Singh**

Alias Shera and Others Vs. State of Punjab, (2004) 3 Supreme Court Cases 654", wherein it was held in para No.5 that in the case of a defective investigation the Court has to be circumspect in evaluating the evidence but it would not be right in acquitting an accused person solely on account of the defect; to do so would tantamount to playing into the hands of the investigating officer if the investigation is designed defective. Further, in view of ratio laid down by the Hon'ble Supreme Court of India in the case of "**Arvind Kumar alias Nemichand Vs. State of Rajasthan, AIROnline 2021 SC 1068**" the prosecution has proved its case beyond reasonable doubt and no materials brought on record by the accused that weakness in his defence been taken as strength of the prosecution. It is imperative to mention herein the vital guideline observations in the case **Arvind Kumar alias Nemichand (Supra)** by the Hon'ble Supreme Court of India about fair, defective, colourable investigation in para Nos. 40, 41 and 45 for non-consideration of the pedantic approach either by the prosecution or by the Court as a case involves an element of law rather than morality. The said para Nos. 40, 41 and 45 are as mentioned below;

40. An Investigating Officer being a public servant is expected to conduct the investigation

fairly. While doing so, he is expected to look for materials available for coming to a correct conclusion. He is concerned with the offense as against an offender. It is the offense that he investigates. Whenever a homicide happens, an investigating officer is expected to cover all the aspects and, in the process, shall always keep in mind as to whether the offence would come Section 299 IPC sans Section 300 IPC. In other words, it is his primary duty to satisfy that a case would fall under culpable homicide not amounting to murder and then a murder. When there are adequate materials available, he shall not be overzealous in preparing a case for an offense punishable under Section 302 IPC. We believe that a pliable change is required in the mind of the Investigating Officer. After all, such an officer is an officer of the court also and his duty is to find out the truth and help the court in coming to the correct conclusion. He does not know sides, either of the victim or the accused but shall only be guided by law and be an epitome of fairness in his investigation.

41. There is a subtle difference between a defective investigation, and one brought forth by

a calculated and deliberate action or inaction. A defective investigation per se would not enure to the benefit of the accused, unless it goes into the root of the very case of the prosecution being fundamental in nature. While dealing with a defective investigation, a court of law is expected to sift the evidence available and find out the truth on the principle that every case involves a journey towards truth. There shall not be any pedantic approach either by the prosecution or by the court as a case involves an element of law rather than morality.

45. A fair investigation would become a colourable one when there involves a suppression. Suppressing the motive, injuries and other existing factors which will have the effect of modifying or altering the charge would amount to a perfunctory investigation and, therefore, become a false narrative. If the courts find that the foundation of the prosecution case is false and would not conform to the doctrine of fairness as against a conscious suppression, then the very case of the prosecution falls to the ground unless there are unimpeachable evidence to come to a conclusion for awarding a punishment on a different charge.

22. Further, mere arguments of learned Advocate for the accused that the inquest panchanama of deceased victim needs to be carried out at concerned Hospital rather than at incident spot does not hold legally as according to Section 194 of BNSS the proceeding should take place on the 'spot' where a person has committed suicide, or has been killed by another or by an animal or by machinery or by an accident or has died under circumstances raising a reasonable suspicion that some other person has committed an offence. The legal requirement is to conduct the inquest where the body was lying to accurately assess the surroundings describing such wounds, fractures, bruises, and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), such marks appear to have been inflicted. Thus, the inquest panachanama carried out by PW-10 is in compliance with the said provision of Section 194 of BNSS (Exh.18).

23. The learned Advocate for the accused also argued that the prosecution failed to prove the alleged incident spot i.e. पत्र्याचे घर was owned by the accused hence, the accused does not owe an explanation under Section 109 of BSA with regard to the circumstances

under which death of victim may have taken place. Hence, it is to be noted herein that Namuna 8 of Property No. 893 (Exh.87) shows owner name of Tukaram Sommanna Kalli, Gav Namuna 8A (Exh.88) shows Khate No.114 bearing property No.300/2 having joint owner names as (i) Aappaso Somanna Kalli (ii) Tukaram Sabu Bamankalli (iii) Tukaram Sommanna Kalli (iv) Pandurang Sommanna Kalli (v) Rajendra Somanna Kalli, and extract of 7x12 (Exh.89) shows common occupants names over Khate No.114 of (i) Aappaso Somanna Kalli (ii) Tukaram Sommanna Kalli (iii) Rajendra Somanna Kalli (iv) Pandurang Sommanna Kalli (v) Tukaram Sabu Bamankalli, and common occupants names over Khate No.317 of (i) Aappaso Somanna Kalli (ii) Rajendra Somanna Kalli (iii) Tukaram Sommanna Kalli (iv) Pandurang Sommanna Kalli (v) Rukmini Somanna Kalli (vi) Yallavva Ningappa Pujari. The said facts along with electricity bill of customer number 270570003094 of customer namely Somanna Janappa Kalli of Karajagi H. No. 58 Tal. Jath shows that the incident spot was owned by Kalli family and was in possession by Kalli family and same has been further corroborated by boundaries mentioned over the said spot panchanama (Exh.21) wherein, no suggestion putted by the learned Advocate for the accused for disputing the said

boundaries of spot panchanama i.e. *on east side of incident spot – house of Rajesaab Saifansaab Katgar, on west side of incident spot – farm field of Pandurang Somanna Koli, on south side of incident spot – metal tin shed house of Tukaram Somanna Kalli (पत्र्याचे शेडवजा घर), on north side of incident spot – farm field of Rukmini Aanappa Koli.* It is imperative to mention herein that it is not the case of the accused that his father's name is not Somanna Janappa Kalli. Furthermore, the accused has failed to put his defence that he was not the occupant of the incident spot and no such suggestion has been put to the prosecution witnesses by the accused. It is pertinent to mention herein that in the statement recorded under Section 351 of BNSS, accused admitted in question No. 41 that “*she/complainant grandmother of victim knows me previously*”, the said fact clearly indicates that she/PW-2 also knows the house of accused being her neighbour which was his dwelling house. PW-2 clearly deposed in her cross-examination that ‘*accused's house was on backside of her house which was situated 8 to 10 ft from backside wall, there was one almond tree in front of the accused's house, the said almond tree was of accused's uncle (मामा), and there was accused's house, accused uncle's house (मामा) and accused brother's house*’ (बदामाचे झाड आरोपीच्या मामाचे आहे, आरोपीचे घर आणि

त्याचे मामाचे घर दरम्यान आरोपीच्या भावाचे घर आहे). Thus, mere oral argument by the learned Advocate for the accused without proving his defence by cogent evidence that the said accused's house i.e. incident spot was not occupied by the accused at the relevant time of incident cannot be consider at this stage. Also, it cannot be said that the accused does not owe an explanation under Section 109 of BSA with regard to the circumstances under which death of victim may have taken place. Therefore, the said argument of the learned Advocate for the accused deserves to be rejected at threshold and hence, the ratio laid down by the Hon'ble Bombay High Court in the case of **"Kashinath Baban Palkar Vs. State of Maharashtra, 1995 A I H C 5125"** is not applicable to the instant case when the prosecution has successfully proved the incident in question did take place at the said purported place of the incident.

24. To prove the sexual assault of victim which resulted in the death of the victim and the injuries found on dead body of victim were sufficient in the ordinary course of nature to cause death of victim, the prosecution has examined Dr. Jincy V. L. as PW-7 who had deposed that he is an M.B.B.S., M.D. in Forensic Medicine. He was attached to Government Medical College, Miraj as Junior Resident in the department of forensic medicine. He was on duty from 8:00 pm to

8:00 am, he had received letter from Dr. Zishan Sayyed, Medical Officer of Rural Hospital Jath. The said letter was for forwarding sensitive case for post-mortem examination of victim (Exh.58). Along with the said letter he had received copy of inquest panchanama and also received dead body of victim at 09:30 pm on 06.02.2025 from Umadi police station. The dead body was brought by Police Naik S.E. Mhetre, B. No.0181 of Umadi police station. Police Naik S. E. Mhetre had identified dead body. He had received letter from Investigating Officer for in-camera post-mortem and for videography of the post-mortem (Exh.59). The Investigating Officer also requested for samples of nails, swab and hair. Dr. Yash Thorat and Dr. Bhushan Amrutsagar assisted him in conducting post-mortem and videography of the post-mortem. He had started the post-mortem at 09:45 pm and completed at 11:45 pm on dated. 06.02.2025. History was given by the Investigating Officer and according to the referral letter of Rural Hospital, Jath. The history was of sexual assault and homicide. Videography of the autopsy procedure was done on the request of the Investigating Officer. The videography was done by Sh. Mahesh Joshi of Modern Studio. There were no clothes on the body, black colour hair band was present, there was a black colour thread around the neck, yellow colour metal hair

rings in both the ears, dust and dry leaves were noted in the hairs. It was the dead body of female of 5 years. The body length was 104 cm, right hand length 12 cm, left hand length 11 cm, right foot length 15 cm, left foot length 14 cm, head circumference 49 cm, chest circumference 50 cm and abdominal circumference was 47 cm. The body was moderately built and nourished. Rigor mortise was marked and generalized. There was no sign of decomposition, mouth was open, eyes were closed, teeth were intact, tip of the tongue clenched between anterior teeth, yellow colour fluid was oozing from nose. There was no oozing from ear and mouth. Cyanosis was present over lips and tongue. There were dried blood stains over face at places. Dried blood stains were present around pubic and perineal region and inner aspect of both thighs. There were following injuries to external genitals:

1. Lacerated wound present over left vaginal wall of size 3 cm X 1 cm X muscle deep, margins irregular with blood infiltrating margins,
2. Lacerated wound was present over right vaginal wall of size 3 cm C 2.5 cm X muscle deep, margins were irregular with blood infiltrating margins,
3. Lacerated wound present over perineum from vaginal orifice to anal orifice of size 6 cm X 2 cm X muscle deep, margins irregular with blood infiltrating margins.

These injuries were antemortem and were caused with a hard and blunt object. Both upper and lower limbs were semi-flexed.

25. PW-7 further deposed that he found surface wounds and injuries as under:

1. Contusion below left eye, horizontally placed of size 6 cm X 3 cm red,
2. Abrasion over left eyelid of size 1.5 cm, 0.5 cm, red,
3. Abrasion over nasal bridge of size 1 cm X 0.2 cm, red,
4. Abrasion over right ala nose of size 1 cm X 0.2 cm, red,
5. Abrasion over chest over manubrium of size 1.5 cm X 0.5 cm, red,
6. Multiple abrasions over lower 1/3rd of anterior neck region of size ranging from 0.1 cm X 0.1 cm to 1 cm, red,
7. Abrasion over left deltoid region of size 1.5 cm X 0.5 cm, red,
8. Abrasion over lateral aspect of left forearm near elbow of size 1.5 cm X 0.5 cm, red,
9. Abrasion over anterior aspect of left knee of size 1 cm X 0.1 cm, red,
10. Abrasion over lateral aspect of right foot of size 1 cm X 0.2 cm, red,

11. Contusion present over left iliac region of size 3 cm X 2 cm, red,
12. Abrasion over left acromion of size 2.5 cm X 1 cm, pale,
13. Multiple abrasion over middle 1/3rd of left thigh of size ranging from 0.1 cm X 0.1 cm to 1 cm X 1 cm, pale,

He deposed that the injuries Nos.1 to 11 (mention in Column No.17) were caused by hard and blunt object. If force was used in doing sexual assault on a mattress (चटई) then the injuries mentioned in column No.15 and injuries Nos.1 to 11 mentioned in column No.17 are possible.

26. PW-7 further deposed that on internal examination of dead body of victim, he found the following injuries/ observations;

1. Underscalp haematoma of size 15 cm X 8 cm X 2 cm present over left fronto parieto temporal region and it was red in colour,
2. No fracture of skull,
3. Meninges congested,
4. Brain congested and oedematous. Subdural hematoma was present over the left fronto-parieto temporal region of 80 ml and it was red in colour. Sub-arachnoid haemorrhage present in the form of thin blood film all over brain of red colour,

5. On examination of thorax there was no evidence of injury or rib fracture, pleura was pale. No impacted foreign body in larynx, trachea and bronchia, mucosa was pale. Both lungs mucosa pale with petechial haemorrhages present at places. Pericardial was pale,
6. In heart multiple petechial haemorrhages present over epicardium at places and heart was normal. Large vessels were filled with blood and blood clots,
7. In abdomen there was no injury found to walls. Peritoneum was pale. There was no abnormal collection in the peritoneal cavity. Mucosa was pale in buccal cavity. Teeth were intact, tip of the tongue clenched between anterior teeth, no foreign body was found in the pharynx. In oesophagus mucosa was pale. Stomach mucosa was pale. 80 ml whitish partially digested food particles were present. No abnormal smell perceived.
8. Small intestine partially filled with gases and mucosa was pale. Large intestine was partially filled with gases and faeces and mucosa was pale,
9. Liver was weighing 800 gm. Pancreas was unremarkable. Spleen weight was 80 gm and it was pale. Kidneys were pale and were weighing 50 gm each. Urinary bladder was empty and its mucosa was pale. Organs of generation, uterus was pale with intact adnexa. Contusion was present over posterior wall of uterus measuring 5 cm X 3 cm and it was red in colour.

27. Further, PW-7 deposed that viscera i.e. vaginal swab in bottle No.1, anal swab in bottle No.2, swab from stain present over right forearm in bottle No.3, nail clippings of right arm for epithelial cells in bottle No.4, nail clippings of left arm for epithelial cells in bottle No.5, scalp hair in bottle No.6, blood for grouping/DNA profile in bottle No.7, sternum for DNA profiling in bottle No.8 thus total 8 bottles were sealed, packed and labelled and handed over with one envelope to Police Constable K.S. Mote, B. No.1915 of Umadi police station on dated. 06.02.2025. PW-7 opined that injuries mentioned in column No.15 found on body were sufficient in the ordinary course of nature to cause death. Injury No.3 mentioned in column No.15 is sufficient in the ordinary course of nature to cause death. Injuries Nos.1, 2 mentioned in column No.15 was collectively sufficient in the ordinary course of nature to cause death. *"The cause of death of victim was haemorrhagic shock due to perineal tear"*. Accordingly, he had issued post-mortem report (Exh.61). At the same time cause of death certificate was also issued by PW-7 (Exh.62). PW-7 deposed that video recording of the autopsy procedure of deceased victim was conducted on dated. 06.02.2025, PNo.100/2025 and he had viewed the video recording and found the contents correct and accordingly he had

issued certificate (Exh.63), the envelope containing memory card contains signature of Asst. Professor (Exh.66) and he had identified the said video recording as Article 'U'. PW-7 had received query made by Investigating Officer for opinion about injuries present on the person of the deceased victim (Exh.64), on receipt of the said letter he had issued opinion vide letter dated.13.02.2025 as "*injury Nos. 1, 2 and 3 mentioned in column No.15 of autopsy report can be possible by forceful penetrative sexual assault*" (Exh.65), however, final opinion shall be provided after receipt of FSL report.

28. In cross-examination of PW-7 by the learned Advocate for the accused, he deposed that he had not given final opinion to the Investigating Officer. The presence of PW-7 and other doctors are not seen in the video. He admitted that there was no recording of continuous one and half hours, the duration of most of the clips of the video recording is about 3 to 5 seconds. He deposed that the doctors of their office called the videographer who was appointed by the Collector. PW-7 admitted that penis is boneless however, PW-7 volunteers that when it erects it becomes hard and blunt. Further, PW-7 admitted that the injuries mentioned in column No.15 of memorandum of post-

mortem examination are possible by any type of hard and blunt object other than penis. In consideration of the said cross-examination of PW-7, it is to be noted herein that the accused is 45 years old matured man and deceased victim was only 4 years 2 months 14 days old girl, the afore-stated injuries found on the dead body of victim indicates the heinous and barbarous crime of rape and murder of victim who was incapable of arousing lust in normal situation. The medical evidence brought on record by the prosecution shows the cruel manner of causing injuries on the left eye, left eyelid, nasal bridge, ala nose, chest, lower anterior neck, left deltoid, left forearm near elbow, left knee, right foot, left iliac foot, left acromion, middle of left thigh along with external genital injuries over left vaginal wall, right vaginal wall, perineum from vaginal orifice to anal orifice at the time of committing rape. Further, it is important to note herein that PW-7 opined *‘injuries mentioned in column No.15 found on dead body of victim were sufficient in the ordinary course of nature to cause death of victim. The injury No.3 mentioned in column No.15 is sufficient in the ordinary course of nature to cause death of victim. Injuries Nos.1, 2 mentioned in column No.15 was collectively sufficient in the ordinary course of nature to cause death of victim.* Furthermore, PW-7 opined that *‘the*

cause of death of victim was haemorrhagic shock due to perineal tear' which support the prosecution story of forceful sexual intercourse which resulted in the death of victim by the cruel, painful and harsh manner of the crime and the said afore-stated inflicted injuries are sufficient in the ordinary course of nature to cause death of victim. It is pertinent to mention herein that *"on suspicion PW-4 along with police went inside the accused house wherein, his house was found in mess, there was blood stains on surface, blood stains on the side of iron/metallic trunk and when they had opened the said iron/metallic trunk they had found inside the said iron/metallic trunk one white colour sack and inside the said white sack dead body of victim was there, the blood was oozing out from the victim's urinary area"*. The said fact is evident to show that accused had tried to conceal the evidence of present crime by hiding the dead body of victim in his house inside white colour sack in the iron/metallic trunk. However, there is neither any defence witness examined by the accused nor any reasonable suggestion made to the prosecution witnesses nor any explanation given by the accused under Section 351 BNSS to explain the said circumstance of concealing dead body of victim and other muddemmal seized vide panchanama from his house. The accused failed to discharge the burden

under Section 109 of BSA when a crime occurred inside his house which is exclusively within the knowledge of the accused where victim was subjected to rape which resulted in her death, and the same is evident from the said injuries Nos.1, 2 and 3 mentioned in column No.15 of autopsy report which can be possible by forceful penetrative sexual assault and in view of PW-7 opinion *‘when penis erects it becomes hard and blunt and if force was used in doing sexual assault on a mattress (चटई) then the injuries mentioned in column No.15 and injuries Nos.1 to 11 mentioned in column No.17 are possible’.*

29. Then, the prosecution has examined Dr. Jishan Imityaj Sayyed as PW-9 who deposed that on 06.02.2025 he was on duty at Rural Hospital Jath as a Medical Officer. At that time, dead body of a girl of 4 years age was brought to him by her parents and relatives, he verified the dead body of that girl and referred it to Miraj Civil Hospital as the case was highly sensitive and urgent (Exh.59). PW-9 remained un rebutted in his cross-examination. However, in his cross-examination by the learned Advocate for the accused, he deposed that he had personally observed the dead body of victim, the dead body might have received 5 minutes before giving reference letter. He admitted that Exh.59 does not bear outward number

and also admitted that there was no difficulty to him to conduct post-mortem examination of the dead body of victim. He deposed that he could not observe the injuries properly but there were blood stains on inner part of thigh. The learned Advocate for the accused failed to bring on record any material procedural lapses to create suspicion by referring dead body of the victim from Rural Hospital Jath to Miraj Civil Hospital.

30. Then, the prosecution has examined Dr. Shashikant Ashok Wali as PW-14 who deposed that he was posted at Rural Hospital Jath as Medical Officer since March 2023. He is an M.B.B.S., D.C.H., D.N.B. and practicing medicine since the last 10 years. On 11.02.2025 he was on duty at the said hospital, he had received letter from DYSP, Sub-division Jath (Exh.84). As per the said letter, he had sent DNA samples of blood, nail clippings, semen and hairs. Police person Pravin and Kumbhar were with the accused, with the assistance of sister, he had collected blood samples, nail clippings, hairs, he asked accused to collect his semen. He took samples in the presence of Kumbhar, Pravin and Kamble Sir. The sample was labelled with signatures, he filled up identification form of accused (Exh.115) which bears his signatures, signatures of witnesses and signature of donor namely Pandurang Somanna Kalli/accused. He deposed that by mistake the

date is mentioned upon Exh.115 as 11.03.2025 instead of 11.02.2025 and then handed over the samples to Kamble Sir, took entry in the MLC register bearing No.234/25 (Exh.131). In cross-examination of PW-14 by the learned Advocate for the accused, he admitted that the collection of samples was not mentioned in the MLC register and MLC entry No.234/2025. He admitted that blood sample of accused/Pandurang Somanna Kalli was not collected on 11.03.2025. However, PW-14 voluntary deposed that blood sample of accused was collected in his presence. PW-14 deposed in his cross-examination that Identification form of accused (Exh.115) and blood sample of accused was forwarded by him to DNA on dated. 11.02.2025. It is to be noted herein that the learned Advocate for the accused argued that PW-14 handed over blood samples of accused to DYSP Kamble and not DYSP Salunkhe. However, it is evidently clear from the testimony of PW-14 that he had collected the blood sample of accused on 11.02.2025 and the same has been corroborated by the testimony of DYSP Sunil Sadashiv Salunkhe/PW-11/I.O., who had sent the accused to the Rural Hospital Jath along with police staff and he also went there by another vehicle thus, the said argument does not have any solid ground.

31. To prove the scientific evidence, the prosecution has examined Smt. Pratibha Ramchandra Mali as PW-13 who deposed that she is an M.Sc. Biochemist and working as Asst. Chemical Analyzer at Regional Forensic Science Laboratory, Kolhapur since March 2024. The nature of work of PW-13 was to analyse samples for DNA profiling. She had undergone training of analysing DNA samples and she might have analysed 400 to 500 DNA samples. On 12.02.2025, she had received '*sternum*' of the victim and blood sample of the accused brought by R.M. Mali B. No.850 along with CM-25 Form and identification form (Exh.114 and Exh.115). When she had received these samples, it was in sealed condition. It's ML Case No. DNAK 121/2025. She deposed that we received ML Case No. DNAK 224/2025 and DNAK 225/2025 from Biology Department, Kolhapur dated. 26.03.2025 (Exh.116 and Exh.117), she had received 9 exhibits in Exh.116 and 4 exhibits in Exh.117. She further deposed that they use Polymerase Chain Reaction and Amplification Technique for DNA profiling test. In this method initially extraction, then amplification and then DNA profiling is to be done. They started DNA profiling on dated. 21.04.2025 and concluded it on 28.05.2025. Initially after receipt of sample, they maintain it in proper temperature condition at minus 20-degree, then

they extract DNA from the sample, thereafter the extracted DNA sample has to be kept in minus 20-degree temperature, then they perform amplification and profiling. In this case, they followed the same procedure. She had issued examination report dated. 17.06.2025 (Exh.97, Exh.98, Exh.99). She deposed that during the period from 21.04.2025 to 28.05.2025 proper preservative measures were observed. The analysis of DNAK Nos.121/2025 and 225/2025 are given in DNAK 224/2025 (Exh.98). She had annexed the chart of genotype along with examination report (Exh.98), the result of analysis and interpretation mentioned in Exh.98 bears her signatures and seal of Regional Forensic Science Laboratory, Kolhapur ('RFSL Kolhapur').

32. In cross-examination of PW-13 by the learned Advocate for the accused, she deposed that the samples which they received were properly preserved. She deposed that DNA in blood stains and semen on T-shirt, if it is in dry form there is no need to preserve it under minus 20-degree Celsius temperature. She also deposed that in some kind of stains even after wash, DNA analysis can be done. She admitted that blood analysis of accused was of blood sample collected on 11.03.2025 and there was no correspondence of I.O. for

forwarding blood sample for DNA of accused dated.11.03.2025. She admitted that for DNA profiling she used the blood samples of accused collected dated. 11.03.2025. Thus, in view of the said admissions of PW-13 in her cross-examination, it appears that the learned Advocate for the accused tried to bring on record that accused had not given his blood samples on 11.03.2025 and by using blood sample of other person PW-13 had prepared false DNA report showing it accused. However, the learned Advocate miserably failed to bring on record the said defence of using blood sample of other person wherein the prosecution has falsely implicated him by preparing false DNA report against him in the present crime. It is important to note that on 10.02.2025 the samples and seized muddemmal was sent to RFSL Kolhapur vide letter (Exh.49) for Chemical Analysis which contains Article 'A' (परिशिष्ट अ) and in the said Article 'A'(परिशिष्ट अ) containing deceased victim's 8 samples, Article 'B' (परिशिष्ट ब) containing accused sample, Article 'C' (परिशिष्ट क) containing seized 15 muddemmal vide Exh.21, Article 'D' (परिशिष्ट ड) containing deceased victim's yellow colour T-shirt vide Exh.20, Article 'E' (परिशिष्ट ई) containing seized 3 muddemmal of accused's clothes vide Exh.37. Then, on the said date RFSL Kolhapur asked PW-11/I.O. for submitting blood samples of accused in DNA Kit to DNA

division of RFSL Kolhapur (Exh.50). It is to be noted that Exh.49 shows remarks that the said Article 'A' (परिशिष्ट अ) and Article 'B' (परिशिष्ट ब) was returned in sealed condition for the reason of correction, the said fact is evident from acknowledgement receipt brought on record (Exh.52) wherein total 19 i.e. 1 sealed parcel and 18 sealed envelopes was received by RFSL Kolhapur. Further, on 11.02.2025 the said returned muddemmal was again sent back through letter (Exh.51) containing the said Article 'A' (परिशिष्ट अ) of deceased victim's 8 samples and Article 'B' (परिशिष्ट ब) containing accused sample wherein, RFSL Kolhapur had issued acknowledgement receipts (Exh.53A and Exh.53B) i.e. receipt of 7 parcel of PM No.100/2025 on 06.02.2025 and 1 parcel of MLC No.207/2025 on 07.02.2025 respectively. The said fact shows that 7 out of 8 parcels of Article 'A' (परिशिष्ट अ) and 1 box/parcel of Article 'B' (परिशिष्ट ब) was received at RFSL Kolhapur on 11.02.2025 meaning thereby 1 sample was returned in Article 'A' (परिशिष्ट अ) i.e. deceased victim's sternum. Then, on 12.02.2025 the said returned 1 sample of Article 'A' (परिशिष्ट अ) i.e. deceased victim's sternum and DNA sample of accused collected on 12.02.2025 vide MLC No.234/2025 was sent vide letter (Exh.54). It is to be noted herein that for DNA profiling (Exh.99) the said sternum of deceased victim and blood of accused

obtained vide MLC No.234/2025 was forwarded vide ref letter of 854 i.e. letter below Exh.54 along with identification form of accused (Exh.115) wherein, the date shows as 11.03.2025 instead of 11.02.2025 and same has been deposed and corroborated by PW-14 in testimony that by mistakenly the date was wrongly mentioned and the said fact also corroborated by PW-13 in her cross-examination that she had prepared Examination Report on the basis of the same where it appears to her over accused identification form the date as 11.03.2025. Hence, the said admissions are factually corroborating the Examination report and not indicating any fatal infirmity in collection of accused blood sample and Chemical Analysis result. It is imperative to mention that Chemical Analysis Examination Report (Exh.98) shows the result of “*Male haplotypes obtained from Ex.3 plastic mat (चटई), and Ex.16S Semen stain from half T shirt, Ex.1 Vaginal swab of victim in DNAK-225/2025 matched with male haplotypes obtained from Ex.2 blood of accused/Pandurang Somnath Kalli in DNAK-121/2025*”. It is further to be noted herein that male haplotypes obtained from plastic mat (चटई), semen stain from half T-shirt of deceased victim, vaginal swab of deceased victim getting matched with male haplotypes obtained from blood of accused vide MLC No.234/2025 which

corroborates the prosecution story of forceful sexual assault which resulted in the death of minor victim committed by the accused. It is not the case of accused that his blood sample for DNA profiling was collected on 11.03.2025 and his blood sample was not collected on 11.02.2025.

33. Further, the other arguments of the learned Advocate for the accused that as per letter (Exh.51) muddemmal samples were send through Police Peon 564 Salunkhe and the acknowledgement receipt shows the name of person as Chavan 221 and hence as alleged by him the said samples were tempered. The said argument of the learned Advocate for the accused deserves to be rejected when it is clearly deposed by PW-11/I.O. in his testimony that he had forwarded the said seized muddemmal and samples for Chemical Analysis at RFSL Kolhapur through Police Constable Keraba Chavan and Police Constable Sandip Salunkhe/PW-5 on dated. 10.02.2025 and also, it is admitted by the PW-13 in her cross-examination that DNA samples received by RFSL were in properly preserved condition. The custody of returned samples was with PW-11/I.O. at DYSP office and same has been deposed by him in his testimony. It is to be further noted herein that sternum of deceased victim for DNA

profiling is the dry bone i.e. long flat bone in the middle of chest and stored in dry form. It is not the case of accused that sternum of deceased was tempered. The line of defence of accused argued was that by using blood sample of other person PW-13 had prepared false DNA report in the name of accused which is completely nullified by the MLC No.234/2025 wherein it shows blood of accused was collected in DNA Kit and sent through letter (Exh.54) which clearly has mention that on 12.02.2025 medical officer has collected his blood. Hence, the prosecution has successfully established the chain of custody of accused's blood sample and deceased victim's sternum right from taking samples for DNA till the final results of its analysis and all the possibility of contamination or tampering of the samples is completely ruled out. The same is in ratio laid down by the Hon'ble High Court of Judicature At Bombay Bench At Aurangabad in the case of **"Nivrutti S/o Nagorao Hange Vs. The State of Maharashtra, in Criminal Appeal No. 889 of 2023"** wherein it was held in para No.18 that;

'18. From the above observations, it is clear that, there is protocol for selecting and preserving the samples for DNA analysis. Necessary precautions are necessary, right from taking samples for DNA till final results of its analysis. Even, the chain of

custody of samples is required to be established so as to rule out the possibility of contamination or tampering. Further, the said exercise is required to be taken up and completed without any delay. What can be gathered from the above observations made by the Hon'ble Supreme Court is that the evidence in the nature of DNA report can only be relied or accepted provided the Prosecution establishes that integrity of the samples remain uncompromised right from the beginning till end and the chain of handling the samples is established and all the possibility of contamination or tampering of the samples is completely ruled out. Further, it leads that DNA could not be said to be infallible, as after all it is an opinion evidence'.

34. It is to be noted herein that DNA is a powerful investigation tool because, with the exception of identical twins, no two people have the same DNA. Therefore, DNA evidence collected from a crime scene can be linked to a suspect or can eliminate a suspect from suspicion. During sexual assault, biological evidence of suspect such as hair, skin cells, semen, or blood can be left on the victim's body or other parts of the crime scene, properly collected DNA can be compared with known samples to place a suspect at the

scene of the crime. It is a settled law that DNA evidence as an expert's opinion like forensic experts, ballistic expert, biological expert, chemical expert etc. In the instant case, the presence of accused is not only established on the incident spot by Chemical Analysis Examination Report but also the strong Last Seen Theory which is coupled with the recovery of dead body of the victim from the accused's house being in very close proximity of time, thus the accused owes an explanation under Section 109 of BSA with regard to the circumstances under which death of victim may have taken place. However, the accused failed to discharge the said burden and to prove his innocence by any cogent evidence wherein he failed to offer any explanation and there is corroborative evidence available inter alia in the form of recovery of dead body from his house and also, otherwise forming a chain of circumstances leading to the only inference for guilt of the accused, incompatible with any possible hypothesis of innocence hence, conviction can be based on the same.

35. To prove the inquest panchanama, spot panchanama and seizure panchanama, the prosecution has examined Sh. Anant Dattatray Nagargoje as PW-1/panch who had supported the investigation

carried out by PW-11/I.O. Through this witness, the prosecution has proved the inquest panchanama and photo (Exh.18 and Article 'A' respectively), identified deceased victim's yellow colour T-shirt and label over it (Article 'B' and Exh.19 respectively), seizure panchanama of deceased victim's yellow colour T-shirt (Exh.20), spot and seizure panchanama (Exh.21) and identified seized muddemmal from incident spot as iron/metallic truck and label over it (Article 'C' and Exh.22 respectively), white colour sack and label over it (Article 'D' and Exh.23 respectively), mat(चटई) and label over it (Article 'E' and Exh.24 respectively), pink colour plastic bag and label over it (Article 'F' and Exh.25 respectively), blood gauze piece (रक्ताचा कापसाचा बोळा) and label over it (Article 'G' and Exh.26 respectively), light purple colour slack (फिक्कट रंगाचा नक्षी असलेला स्लॅक) and label over it (Article 'H' and Exh.27 respectively), brown colour underwear (तपकीरी) and label over it (Article 'I' and Exh.28 respectively), light Pink colour shirt and label over it (Article 'J' and Exh.29 respectively), earth soil mixed with blood and label over it (Article 'K' and Exh.30 respectively), earth surface cotton swab (जमीनीच्या पृष्ठभागाचा नियंत्रित नमुना घेतलेला कापसाचा बोळा) and label over it (Article 'L' and Exh.31 respectively), earth soil and label over it (Article 'M' and Exh.32 respectively), hair found over mat (चटई)

and label over it (Article 'N' and Exh.33 respectively). Through PW-1 the prosecution has proved accused's clothes seizure panchanama (Exh.37) and he had identified the said clothes as light blue colour T Shirt and label over it (Article 'O' and Exh.34 respectively), brown colour pant and label over it (Article 'P' and Exh.35 respectively), green colour underwear and label over it (Article 'Q' and Exh.36 respectively), and spot panchanama as showed by the accused and photo (Exh.38 and Article 'R' respectively). It is to be noted herein that PW-1 remained uncontroverted in his cross-examination.

36. The learned Advocate for the accused has tried to bring on record the discrepancy in timing deposed by PW-11/I.O. in accused's clothes seizure panchanama dated. 07.02.2025 (Exh.37) wherein PW-11/I.O. had stated in his cross-examination that he had carried out the said accused's clothes seizure panchanama in the night 2.30 to 3.30 hours and PW-1/panch had stated in his cross-examination that the said accused's clothes seizure panchanama was carried out between afternoon 2 to 2.30 to 3.45 hours and hence, the DNA examination report (Exh.98) is planted against the accused. Therefore, this Court has made cautious endeavour to the adduced evidences by the

prosecution wherein, it appears to this Court that the scientific evidence i.e. Chemical Analysis Examination Report below Exh.98 shows the result of "परिशिष्ट 'क' containing ARTICLE No.9 – one Tapkiri colour elastic underwear having its outside written BOLD 80 CM and its inside WELLTRACK 100% COTTON MADE IN INDIA and ARTICLE No.11 – one light pink colour white design shirt having logo over its collar in English FREEZONE SHIRT 6 button full sleeves left sides pocket over the said shirt red colour stain"; wherein the result of analysis shows that "Mixed DNA profile obtained from Ex.3 plastic mat, Ex.16S Semen stain from half T shirt matched with DNA profile obtained from Ex.2 blood of accused/Pandurang Somanna Kalli, and Female DNA profiles are obtained from Ex.9B blood stain cuttings from underwear, Ex.11 blood stain cuttings from full shirt matched with DNA profile obtained from Ex.1 sternum of victim" vide panchanama dated. 06.02.2025 below Exh.21 and not the argued accused's clothes seizure panchanama dated. 07.02.2025 below Exh.37 by the learned Advocate for the accused, the said fact is evidently crystal clear from the Chemical Examination Report below Exh.102 in which the description of articles contained in the parcel/envelope mentioned in it. Thus, in consideration of the stated facts, the said argument

of the learned Advocate for the accused deserves to be rejected. It is imperative to mention herein that PW-2/complainant grandmother of victim had deposed in her testimony that *she had made enquiry with the accused about the blood stain seen by her on his shirt in which he stated her that it was caused due to sickle*’ (पिडीतेचा शोध घेत असताना आरोपीच्या शर्टवर असलेल्या रक्ताच्या डागाबाबत विचारणा केली होती), the said fact is in corroboration of the said panchanama below Exh.21.

37. Then, the prosecution has examined Lady Police Head Constable Smt. Kaveri Sakharam Mote as PW-15 who had supported the investigation carried out by PW-10 and PW-11/I.O. She had deposed that on 06.02.2025, PSI Salve had told her and Police Head Constable 951 Bandgar, Lady Police Naik 2181 Mhetre, Police Peon 45 Potbare, Police Head Constable 1928 Mane that 4 years old girl of Karjagi village is missing and hence, we need to go there. On the said date at about afternoon 01:03 hours, PW-15 had taken entry in Station Diary No.9 and left from Umadi police station in Government vehicle and reached at Karajagi village, they were doing search of the said missing girl in which they had received phone of API Sandip Kamble/PW-10 and he asked them to come near to house of Rakhamabai Kalli/mother of accused, accordingly they

reached there, API Sandip Kamble/PW-10 had shared information about the search done by him to them, that time API Sandip Kamble/PW-10 was along with Chandbasha Jatgar/PW-4. Then API Sandip Kamble/PW-10 had informed about it to seniors, he had secured the incident spot and called two Government panchas. After arrival of Government panchas API Sandip Kamble/PW-10 had carried out deceased victim's inquest panchanama in the presence of PW-15 and PSI Narayankar Madam, while doing the said inquest panchanama API Sandip Kamble/PW-10 had given deceased victim's body T-shirt to PW-15 and the same was returned by PW-15 to API Sandip Kamble/PW-10 which he had seized vide seizure panchanama (Exh.20). The same has been in corroboration of testimony of API Sandip Kamble/PW-10 and PW-1/panch. PW-15 had identified the deceased victim's T-shirt as Article 'B' and label over the said deceased victim's T-shirt as Exh.19. Then, API Sandip Kamble/PW-10 had asked PW-15, PSI Jadhav and Lady Police Naik 2181 Mhetre to go for post-mortem ('PM') and accordingly they had come to Jath Sub-district Hospital by ambulance and from there they had been referred to Miraj Civil Hospital and after reaching Miraj Civil Hospital by giving letter to medical officer they had asked to carry out PM of dead body of victim

(Exh.58), the said letter bears the remarks as '*Received all documents on 06.02.2025 at.9.30pm.*' along with signature of Dr. Y. S. Thorat and seal of the Hospital. After carrying out PM, medical officer had given 8 sealed bottles, one sealed envelope and Advance Certificate to PW-15 and after sometime the dead body was given into the custody of deceased victim's relatives. After reaching to the said police station, PW-15 got to know that investigation of present crime was allotted to DYSP i.e. PW-11/I.O. hence, she had handed over the said 8 sealed bottles, one sealed envelope and Advance Certificate to DYSP. The same is in corroboration of testimony of PW-11/I.O. who had clearly deposed in his testimony that he had forwarded the said seized muddemmal and samples for Chemical Analysis vide Police Constable Keraba Chavan and Police Constable Sandip Salunkhe/PW-5 on dated. 10.02.2025.

38. In cross-examination of PW-15 by the learned Advocate for the accused, he has exhibited log-sheet of four-wheeler vehicle No. MH-10-EE-2417 of Umadi police station below Exh.152 which supports the testimony of API Sandip Kamble/PW-10 and another exhibited log-sheet of four-wheeler vehicle No. MH-10-DQ-9768 of Umadi police station below Exh.155

supports the testimony of PW-15. It is to be noted herein that the said Exh.152 log-sheet clearly shows that it was used by API Sandip Kamble/PW-10 in which 1+2 persons were travelled from Umadi police station on 06.02.2025 at 13:00 hours for '*search of missing girl/deceased victim*' and returned to the said Umadi police station on 19:00 hours, and the said Exh.155 log-sheet clearly shows that it was used by PSI Salve in which 1+5 persons were travelled from Umadi police station on 06.02.2025 at 13:03 hours for '*Karajagi incident spot to PM of dead body of victim at Miraj to last rites of dead body of victim at Karajagi to returned to the said Umadi police station*' on next day i.e. 07.02.2025 at 10:00 hours. The said fact is further corroborated by station diary entries (Exh.74 and Exh.76). It is imperative to mention herein that PW-15 in her cross-examination had identified the deceased victim's yellow T-shirt (Article 'B') seized vide seizure panchanama (Exh.20) by specific mention that the said T-shirt of deceased victim was of yellow colour and having red colour blood stains over it, the said fact further solidate the testimony of PW-15 and the said seizure panchanama of yellow T-shirt of deceased victim.

39. The prosecution has examined Police Head Constable, Umadi Police Station Sh. Namdev Mohan

Kalel as PW-12 who had supported the investigation carried out by the PW-11/I.O. Through this witness, the prosecution has proved the deposit of seized muddemmal to the Umadi police station on dated. 06.02.2025 and 07.02.2025 vide muddemmal receipts (Exh.72 and Exh.73 respectively) and sending of the said seized muddemmal to RFSL Kolhapur by hand of police constable Sandip Salunkhe/PW-5 (Ferist Exh.108/1 i.e. Exh.109), same is in corroboration of testimony of Sandip Salunkhe/PW-5. PW-12 deposed in his testimony that from November 2024 to April 2025 he was working as Muddemmal Clerk and he used to accept muddemmal from Investigating Officer and to issue muddemmal receipt as part of his job and whenever muddemmal be sent for Chemical Analysis then the Investigating Officer get it collected from him. He further deposed that in C.R. No. 26/25 he had received muddemmal on 06.02.2025 from API Kamble/PW-10 and 07.02.2025 from DYSP Salunkhe PW-11/I.O., and accordingly he had made entry vide in the book of muddemmal receipt Nos. 7347, 7348 dated. 06.02.2025 which is at Exh.72 and Exh.73 and received muddemmal from DYSP Salunkhe PW-11/I.O. on dated. 07.02.2025 which is at Exh.80. He further deposed that on 10.02.2025 the said muddemmal was sent through Police Peon Salunkhe at RFSL Kolhapur and recorded

the over muddemmal register and he had brought along with him original muddemmal register with him and filed on record its copy below ferist Exh.108/1, the contents are correct wherein, my learned predecessor had exhibited the said copy of muddemmal register at Exh.109 PW-12 further deposed that the entries over the said muddemmal register is in handwriting of Police Constable Kokate and PW-12 is acquainted with the handwriting of the said Police Constable Kokate who had taken the said entries in his presence and the said muddemmal received dated. 06.02.2025 and 07.02.2025 was in his custody. It is to be noted herein that muddemmal register copy below Exh.109 i.e. ferist Exh.108/1 was referred in testimony of PW-12 as verified copy and the same has been supported by the Roznama dated.19.11.2025 which is as below;

*‘State of Maharashtra – Present,
Jadhav Sunil Tukaram – Present,
Accused on VC produced,
C. Exh. 106 Deposition of witness no.12 is
recorded,
D Exh. 107 Appln filed by state for
production of document-Allowed,
D Exh. 108 List of document filed,
D Exh. 109 Verified register extract,
D Exh. 110 ड्युटी बटवडा*

*Adjd. For Issue witness summons as per
Exh.104
to PW-13'*

40. In cross-examination of PW-12 by the learned Advocate for the accused, the duty allocation (ड्युटी बटवडा) dated. 06.02.2025 was exhibited below Exh.110 which clearly shows that on the said date he was present in the Umadi police station. PW-12 admitted in his cross-examination that '*on 10.02.2025 he had handed over all the received muddemmal to the Police Constable Sandip Salunkhe buckle No.564/PW-5 and it had contained 19 articles*', the said admission of PW-12 in cross-examination clearly indicates that the learned Advocate for the accused had admitted that muddemmal register copy exhibited below 109 along with its contents i.e. document below ferist Exh.108/1. PW-12 also deposed that Article 'A' contained in Exh.49 was handed over by DYSP i.e. PW-11/I.O. to the PW-5 however, he had not checked what it was contained, the said fact also in corroboration of testimony of PW-11/I.O. He also deposed in his cross-examination that in the said police station they have Fridge (उपाययोजना) for securing muddemmal received from the Hospital.

41. In the said background it is to be noted herein, that where the document is not disputed in terms of its existence or contents, then even a copy would be exhibited as there is no real objection and what the Court has to consider is the truth of contents, which is applicable to the instant case document filed below ferist Exh.108/1 which has been exhibited below Exh.109 being part of the official record maintained by the authority i.e. concerned police station. PW-12 satisfied that the said document is produced from authentic records of the said public authority in which entries are made by a public servant in discharge of official duty and the contents are successfully proved by PW-12 in his testimony wherein he was cross-examined by the learned Advocate for the accused. It is to be noted herein that no suggestion or denial putted by the learned Advocate for the accused in cross-examination PW-12 about the non-existence of the said muddemmal register or about it's content, moreover he had suggested PW-12 that *on 10.02.2025 he had handed over all the received muddemmal to the Police Constable Sandip Salunkhe buckle No.564/PW-5 and it had contained 19 articles*, wherein the said documents contains the said admitted 19 articles i.e. muddemmal received on 06.02.2025 and 07.02.2025. It is to be noted herein that the verified copy of the said

document below ferist Exh.108/1 i.e. Exh.109 was filed on record by the prosecution below ferist Exh.159/1 and this Court has passed reasoned order below Exh.160 and Exh.1 for allowing the production of the said document in the instant case.

42. The prosecution has examined Sh. Sandip Tamma Salunkhe as PW-5 who had supported the investigation carried out by the PW-11/I.O. Through this witness, the prosecution has proved the deposit of seized muddemmal and samples for Chemical Analysis vide letter (Exh.49) dated. 10.02.2025 sent to RFSL Kolhapur wherein remarks mentioned that due to reason of deficiency in Article "A" and "B" (परिशिष्ट अ आणि ब) it has been returned in custody as it was in sealed condition (परिशिष्ट अ व परिशिष्ट ब हे त्रुटी कारणास्तव आहे असे सिलबंद स्थितीत परत ताब्यात मिळाले) along with letter received from RFSL Kolhapur dated.10.02.2025 (Exh.50), the deposit of samples for Chemical Analysis vide letter dated. 11.02.2025 were sent to RFSL Kolhapur (Exh.51). It is to be noted herein that the testimony of Sandip Salunkhe/PW-5 clearly shows that as per order of DYSP PW-11/I.O. on 10.02.2025 he had received all the said seized muddemmal and samples. Wherein, PW-15 clearly deposed that she had deposited the said samples of deceased victim in 8 bottles to DYSP PW-11/I.O. and further, PW-11/I.O. deposed in his

testimony that he had forwarded the said seized muddemmal and samples for Chemical Analysis vide Police Constable Keraba Chavan and Police Constable Sandip Salunkhe/PW-5 on dated. 10.02.2025.

43. Then, the prosecution has examined Police Constable Sh. Rajendra Murgyappa Mali as PW-6 who had supported the investigation carried out by the PW-11/I.O. Through this witness, the prosecution has proved the seized muddemmal and sample for DNA profiling vide letter dated. 12.02.2025 sent RFSL Kolhapur (Exh.54). PW-6 remained unrebutted in his cross-examination by the learned Advocate for the accused.

44. It is imperative to mention herein that in the entire cross-examination of prosecution witnesses done by the learned Advocate for the accused shows that he had tried to bring on record the discrepancies in the timings from the missing information of girl received at police station to the investigation carried out by PW-10 and PW-11, and he argued that the said timings are important for showing the colourable investigation of the instant crime done by the PW-11/Investigating Officer who had completed the investigation in 13 days and he had tried to falsely implicate alleged accused in the present crime by suppressing accused's motive to

commit the present crime. The learned Advocate for the accused also argued at length that due to the said discrepancies in the timings, the prosecution witnesses are not depositing truth hence, their entire testimonies is untrustworthy and should be discarded. In the said background, it is necessary to mention herein the principle governing Latin Maxim '*falsus in uno, falsus in omnibus*' i.e. '*false in one thing, false in everything*' has got no application to the Court in India and has not assumed the status of laws but continues only as a rule of caution. The Court has to see the nature of discrepancies in a given case, when the discrepancies are very material shaking the very credibility of the witness leading to a conclusion in the mind of the Court that it is neither possible to separate it nor to rely upon, it is for the Court to either accept or reject. Thus, the argument of the learned Advocate for the accused is deserves to be rejected as he failed to bring on record any material discrepancies shaking the credibility of the prosecution witnesses or destroying the core foundation of prosecution case. In the instance case, discrepancies in the timings of events provided by the prosecution witnesses do not affect their credibility as the same is outcome of human memory, natural passage of time, shock of an event and individual mental disposition, no two witnesses recall events with exactitude. Further, the

argument of learned Advocate for the accused on point of colourable investigation done by the Investigating Officer also deserves to be rejected as the prosecution has successfully established the foundation of the prosecution case and proved the guilt of the accused beyond reasonable doubt. It is to be noted herein that it is not case of accused that the prosecution has not examined best evidence available but it was withheld by the prosecution with oblique motive hence, the prosecution's case cannot be discarded merely on a bald plea of examined prosecution witnesses are not believable and not to be ground to discredit prosecution witnesses. The instant case is of minor girl child rape, an act of perverse lust where a premeditated motive against the specific victim is irrelevant to proving the crime. The prosecution has successfully proved the actus reus i.e. physical act of the accused which speak for itself and inferred intent of the accused wherein, as discussed above the sexual assault of victim has resulted in the death of the victim and the injuries found on dead body of the victim were sufficient in the ordinary course of nature to cause death of her. It is pertinent to mention the injuries to external genital of deceased victim i.e. i) Lacerated wound present over left vaginal wall of size 3 cm X 1 cm X muscle deep, margins irregular with blood infiltrating margins, ii)

Lacerated wound was present over right vaginal wall of size 3 cm C 2.5 cm X muscle deep, margins were irregular with blood infiltrating margins, iii) Lacerated wound present over perineum from vaginal orifice to anal orifice of size 6 cm X 2 cm X muscle deep, margins irregular with blood infiltrating margins. These injuries were antemortem and were caused with hard and blunt object i.e. erected penis as opined by PW-7. Further, injuries Nos.1, 2 mentioned in column No.15 was collectively sufficient in the ordinary course of nature to cause death of victim, "*the cause of death of victim was haemorrhagic shock due to perineal tear*". and "*injury Nos. 1, 2 and 3 mentioned in column No.15 of autopsy report can be possible by forceful penetrative sexual assault*" (Exh.65).

45. To prove the age of the victim, the prosecution has brought on record memorandum of post-mortem examination of deceased victim (Exh.61) which shows the age of victim as 5 years old, cause of death certificate of victim (Exh.62) which shows the age of victim as 5 years old and birth certificate of victim (Exh.93) which shows the date of birth of deceased victim as 23.12.2020 and also shows that at the relevant date of incident victim was 4 years 2 months 14 days old. It is to be noted herein that the

learned Advocate for accused has not strongly challenged the age or date of birth of the deceased victim. Further, it is pertinent to mention herein that death of 4 years 2 months 14 days old victim girl is an admitted fact, same is evident from the death certificate brought on record (Exh.95).

46. Thus, the prosecution has successfully proved that the date of birth of victim is as 23.12.2020 i.e. at the relevant time of incident in question victim was age of 4 years 2 months 14 days old meaning thereby she was minor within the definition of child under Section 2(1)(d) of POCSO Act in accordance to Rule 12 of Juvenile Justice Rules 2007 ('JJ Rules') read with Section 94 of the Juvenile Justice (Care and Protection of Children) Act ('JJ Act') which is strictly applicable for determination of age therefore, it would be just and appropriate to apply Rule 12 of JJ Rules read with Section 94 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ('JJ Act') to determine to age of victim girl. It is necessary to mention herein that in Sub-rule 2 of Rule 12 of JJ Rules, the age of the child is to be ascertained by adopting the first available basis i.e. matriculation or equivalent certificate of the concerned child, and in absence of said certificate the date of birth entered in the school 1st attended by the child, and in absence of first two certificate or record

then reliance can be postulate on the birth certificate issued by corporation, municipal authority or panchayat, then in absence of all the aforesaid, the Rule 12(3) postulates the determination of age of the child on the basis of medical opinion. It is to be noted herein that birth certificate of victim (Exh.93) has registration date of 31.12.2020 vide registration No.24 which is prior dated than date of incident in question.

47. Therefore, in view of above discussions, it is crystal clear that the prosecution has successfully established that victim's date of birth was 23.12.2020 and on the date of incident victim was minor by producing the said relevant documents and evidence on record. Hence, I answer point No.1 accordingly.

48. Thus, while consideration of entire evidence brought on record, the prosecution has successfully brought on record the circumstance conclusive in nature and tendency which excluded every possibility of hypothesis except the one proved the guilt of accused and not leaving any reasonable ground for the conclusion consistent with the innocence of the accused and shows that in all human probability the act must have been done by the accused. It is clearly established in evidence that the deceased victim was subjected to a brutal sexual assault, the injuries as evidenced in the

post-mortem report particularly mentioned in column No.15 clearly indicate that the deceased was subjected to aggressive penetrative sexual assault coupled with other circumstantial evidence clearly constitute foundational facts for raising presumption under Section 29 and 30 of POCSO Act, and which is in accordance with the conclusion and guidelines laid down by the Hon'ble High Court of Judicature At Bombay in case of **“Deelip Tatoba Raje Vs. The State of Maharashtra, in Criminal Appeal No.990 of 2019”**.

49. It is pertinent to note that Section 29 deals with ‘presumption as to certain offences’ where a person is prosecuted for committing or abetting or attempting to commit any offence under Sections 3, 5, 7 and 9 of POCSO Act, the Special Court shall presume, that such person committed or abetted or attempted to commit the offence, as the case may be unless the contrary is proved and Section 30 of POCSO Act deals with ‘presumption of culpable mental state’. Section 30 of POCSO Act makes it obligatory to presume the existence of required culpable mental state of the accused. The said presumption is rebuttable. However, the learned Advocate for the accused failed to rebut the said presumption of guilt raised against the accused as he is not involved in the said crime and failed to raise doubt about genuineness or veracity of the allegations

nurtured on behalf of the prosecution and failed to succeed to show his innocence by preponderance of probabilities. The minor discrepancy in testimonies of prosecution witnesses argued extensively by the learned Advocate for the accused would not be fatal to the case of prosecution.

50. It is to be noted herein that the accused has provided explanation in his statement recorded under Section 351 of BNSS that he was under influence of alcohol and regained his consciousness when he was at police station. However, his pre-arrest medical examination does not show that he was under influence of alcohol (Exh.79). Further, in cross-examination of PW-2, the learned Advocate for the accused had putted suggestion that he was along with PW-2 for doing search of victim which is contrary to the explanation provided by the accused in his statement recorded under Section 351 of BNSS. The said fact becomes a link in the chain of circumstances which point unerringly to the guilt of the accused. The same is in view of the Hon'ble High Court of Judicature At Bombay in the case of **"The State of Maharashtra Vs. Shivaji @ Dadya Shankar Alhat, 2004 Vol. 106 (4) Bom. L. R. 56"** wherein it was held in para No.44 that;

'44. In the circumstances, we have no hesitation in coming to the conclusion that the accused is

the perpetrator of the crime, The accused was last seen in the company of the deceased. He has not stated when he parted company with her. The deceased was not seen thereafter till her dead body was found on the hill raped, stabbed and strangulated to death. Penknife stained with human blood of 'O' group was recovered at the instance of the accused, The blood group of the deceased was 'O' and the blood group of the accused is 'A'. The accused was absconding. He was arrested three days after the incident from the field of sugarcane crop where he was hiding. Human blood was found on the clothes of the accused. The accused has offered no explanation for any of the circumstances. He took up a false plea of alibi which has become a link in the chain of circumstances which point unerringly to the guilt of the accused. The chain is so complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused. All the established facts are consistent only with the hypothesis of the guilt of the accused and are inconsistent with his innocence'.

51. The accused has not rebutted the said presumption of Section 29 and 30 of POCSO Act by adducing proof to the contrary and failed to discharge

the said burden and to prove his innocence by any cogent evidence wherein he failed to offer any explanation and there is corroborative evidence available inter alia in the form of recovery of dead body from his house and also, otherwise forming a chain of circumstances leading to the only inference for guilt of accused, incompatible with any possible hypothesis of innocence, same is in view laid down by the Hon'ble Supreme Court of India in the cases of "**Sambhubhai Raisangbhai Padhiyar Vs. State of Gujarat, 2025 CRI. L.j. 669**" and five golden principles which constitute the panchsheel of the proof of a case based on circumstantial evidence observed by the Hon'ble Supreme Court of India in Landmark case of "**Sharad Birdichand Sarda Vs. State of Maharashtra, AIR 1984 SUPREME COURT 1622**" in para No. 152 which is as below;

152. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established.

It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a

grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in Shivaji Sahabrao Bobade & Anr. v. State of Maharashtra(') where the following observations were made:

"Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say. they should not be explainable on any other hypothesis except that the accused is guilty, (3) the circumstances should be of a conclusive nature and tendency.

(4) they should exclude every possible hypothesis except the one to be proved, and (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

52. Thus, in view of ratio laid down by the Hon'ble Supreme Court of India in the case of **"State of Punjab Vs. Kewal Krishan, AIR 2023 SUPREME COURT 3226"**, the accused failed to discharge his burden under Section 109 of BSA to prove his innocence and to disclose that he parted company of the victim before her rape which resulted in the cause of her death.

53. Hence; in view of the afore-quoted discussions, findings and settled legal propositions, the prosecution successfully proved the ingredients of the Sections 103(1), 65(2), 238, 127(2) of BNS and Sections 4, 5(1), 6, 8, 12 of POCSO Act beyond reasonable doubt against accused and hence, this Court holds the accused guilty of the said offences punishable under Sections 103(1), 65(2), 238, 127(2) of BNS and Sections 4, 5(1), 6, 8, 12 of POCSO Act. Therefore, I record my findings to point nos. 1 to 10 accordingly. It is pertinent to mention herein that this Court holds accused guilty in accordance to a well settled principles of law as discussed in this judgment and not on moral grounds in view of ratio laid down by the Hon'ble Bombay High Court (Nagpur Bench) in the case of **"State of Maharashtra Vs. Dilip Chordiya, (2008) 4 MH L J (Cri) 107 (BOM)"**.

54. Now, it is time to listen to the accused on the point of sentence. The Court hereby puts on hold the proceeding to afford an opportunity to the accused till second session of the day. At this stage, I have recorded further statement of the accused U/s 351 of BNSS.

Sangli
Date:- 01/08/2026.

(Smt. J. A. Mohanty)
Additional Sessions Judge,
Sangli.

(Resumed on 01/08/2026 in second Session)

55. The Court now resumed in the second session of the day to listen to the accused on the point of sentence. Unanimously, the accused urged for leniency. He stated that his family is dependent on him and there is no one to look after his old aged mother. Accused assured to reform himself. The learned Advocate for the accused prayed for leniency with benefit of Section 468 of BNSS.

56. Per contra, the learned DGP prayed for stringent punishment to the accused considering the instant case under the category of rarest of rare cases and imposition of fine in accordance with the prevalent provision.

57. Given the backdrop of the case, gravity of offence, proved facts, complicity of the accused, his criminal antecedents vis-à-vis the provisions of law, the Court deems fit to pass the following sentence to be an appropriate in view of the gravity of the nature and financial condition of the accused wherein, deceased victim was only 4 years 2 months 14 days old who was subjected to rape which resulted in the cause of her death on cause of "*Haemorrhagic shock due to perineal tear*". Further, the cruel, barbaric and heinous act of

accused is evident of his lust and the injuries found over the external genitals of deceased victim which were antemortem and were caused with hard and blunt object i.e.;

1. Lacerated wound present over left vaginal wall of size 3 cm X 1 cm X muscle deep, margins irregular with blood infiltrating margins,
2. Lacerated wound was present over right vaginal wall of size 3 cm C 2.5 cm X muscle deep, margins were irregular with blood infiltrating margins,
3. Lacerated wound present over perineum from vaginal orifice to anal orifice of size 6 cm X 2 cm X muscle deep, margins irregular with blood infiltrating margins.

58. Further, the surface wounds and injuries found over deceased victim which are;

1. Contusion below left eye, horizontally placed of size 6 cm X 3 cm red,
2. Abrasion over left eyelid of size 1.5 cm, 0.5 cm, red,
3. Abrasion over nasal bridge of size 1 cm X 0.2 cm, red,
4. Abrasion over right ala nose of size 1 cm X 0.2 cm, red,

5. Abrasion over chest over manubrium of size 1.5 cm X 0.5 cm, red,
6. Multiple abrasions over lower 1/3rd of anterior neck region of size ranging from 0.1 cm X 0.1 cm to 1 cm, red,
7. Abrasion over left deltoid region of size 1.5 cm X 0.5 cm, red,
8. Abrasion over lateral aspect of left forearm near elbow of size 1.5 cm X 0.5 cm, red,
9. Abrasion over anterior aspect of left knee of size 1 cm X 0.1 cm, red,
10. Abrasion over lateral aspect of right foot of size 1 cm X 0.2 cm, red,
11. Contusion present over left iliac region of size 3 cm X 2 cm, red,
12. Abrasion over left acromion of size 2.5 cm X 1 cm, pale,
13. Multiple abrasion over middle 1/3rd of left thigh of size ranging from 0.1 cm X 0.1 cm to 1 cm X 1 cm, pale,

Wherein, injuries Nos.1 to 11 (mentioned in Column No.17) were caused by hard and blunt object and as opined by PW-7 if force was used in doing sexual assault on a mattress (चटई) then the injuries mentioned in column No.15 and injuries Nos.1 to 11 mentioned in column No.17 are possible in accordance to the opinion

of PW7.

59. Furthermore, the injuries mentioned in column No.15 found on deceased victim's body were sufficient in the ordinary course of nature to cause death, injury No.3 mentioned in column No.15 is sufficient in the ordinary course of nature to cause death of victim, injuries Nos.1, 2 mentioned in column No.15 was collectively sufficient in the ordinary course of nature to cause death of victim and "*the cause of death was haemorrhagic shock due to perineal tear*" and "*injuries Nos.1,2 and 3 mentioned in column No.15 of autopsy report can be possible by forceful penetrative sexual assault*" (Exh.65).

60. It is imperative to mention herein that the crime of this nature against the minor victim is definitely a crime against the society. The victim of crime is an innocent girl who subjected to afore-stated multiple injuries which shows the gruesome manner in which she was subjected to rape. Such cruelty towards a 4 years 2 months 14 days old girl is appalling. The accused had stooped so low as to unleash his monstrous self on the innocent, helpless and defenceless child. The act of accused shocked the collective conscience of the society. The facts of the instant case, the offences taken

together along with the age of the victim and the age of the accused clearly bring the case into the category of “the rarest of rare case” in which interest of justice requires award of maximum penalty”. The imposition of life imprisonment appears to be altogether inadequate punishment having regards to the stated relevant circumstances of the crime. The same is in ratio laid down in the case of **The State of Maharashtra Vs. Shivaji @ Dadya Shankar Alhat (Supra)** and by the Hon’ble Supreme Court of India in the cases of **Sambhubhai Raisangbhai Padhiyar (Supra)**, “**Machhi Singh and Others Vs. State of Punjab, AIR 1983 SUPREME COURT 957**”, “**Laxman Naik Vs. State of Orissa, AIR 1995 SUPREME COURT 1387**”, “**Vasanta Sampat Dupare Vs. State of Maharashtra, AIR 2017 SUPREME COURT 2530**” and “**C. Muniappan and Others Vs. State of Tamil Nadu, (2010) 9 Supreme Court Cases 567**” wherein it was held in Para Nos.87 and 88 that;

‘87. *In Machhi Singh & Ors. v. State of Punjab, AIR 1983 SC 957, this Court expanded the "rarest of rare" formulation beyond the aggravating factors listed in Bachan Singh (supra) to cases where the "collective conscience" of a community is so shocked that it will expect the holders of the judicial powers to*

inflict the death penalty irrespective of their personal opinion as regards desirability or otherwise of retaining the death penalty, and stated that in these cases such a penalty should be inflicted. But the Bench in this case underlined that full weightage must be accorded to the mitigating circumstances in a case and a just balance had to be struck between aggravating and mitigating circumstances. The Court further held that the relevant factors to be taken into consideration may be motive for, or the manner of commission of the crime, or the anti-social or abhorrent nature of the crime, such as:-

- (i) Murder is in extremely brutal manner so as to arouse intense and extreme indignation of the community.
- (ii) Murder of a large number of persons of a particular caste, community, or locality, is committed.
- (iii) Murder of an innocent child; a helpless woman, is committed.

88. In Devender Pal Singh V. State of NCT of Delhi, AIR 2002 SC 1661, this Court referred to both these cases and held that death sentence may be warranted when the murder is committed

in an extremely brutal manner; or for a motive which evinces total depravity and meanness e.g. murder by hired assassin for money or reward, or cold blooded murder for gains. Death sentence may also be justified:

"(4) When the crime is enormous in proportion. For instance, when multiple murders, say of all or almost all the members of a family or a large number of persons or a particular caste, community, or locality are committed.

(5) When the victim of murder is an innocent child or a helpless woman or old or infirm person or a person vis-à-vis, whom the murderer is in a dominating position, or a public figure generally loved and respected by the community."

61. Thus, as discussed on anxious consideration to the material on record, the aggravating circumstances, extreme depravity and the barbaric manner in which the crime was committed and the fact that the minor victim of 4 years 2 months 14 days old was a helpless girl clearly outweigh the mitigating circumstances. Therefore, to the said afore-stated discussion and findings, this Court pass the following order.

ORDER

1.	Accused Pandurang Somanna Kalli (Pujari), age: 45 yrs, R/o. Karajagi, Tal. Jath, Dist. Sangli is convicted vide Section 258(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 for the offences punishable under Sections 103(1), 65(2), 238, 127(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4, 5(1), 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012.
2.	Accused is sentenced for the offence punishable under Section 103(1) of the Bharatiya Nyaya Sanhita, 2023 to death (hang by the neck till he is dead) and to pay fine of Rs.20,000/- (Rs. Twenty Thousand only) in default he shall undergo simple imprisonment for 2 (Two) months.
3.	Accused is sentenced for the offence punishable under Section 65(2) of the Bharatiya Nyaya Sanhita, 2023 to death (hang by the neck till he is dead).
4.	Accused is sentenced for the offence punishable under Section 238 of the Bharatiya Nyaya Sanhita, 2023 to undergo rigorous imprisonment for 7 (Seven) years and to pay fine of Rs.10,000/- (Rs. Ten Thousand only) in default he shall undergo simple imprisonment for 1 (One) month.

5.	Accused is sentenced for the offence punishable under Section 127(2) of Bharatiya Nyaya Sanhita, 2023 to undergo rigorous imprisonment for 1 (One) year and to pay fine of Rs.5,000/- (Rs. Five Thousand only) in default he shall undergo simple imprisonment for 15 (Fifteen) Days.
6.	Accused is sentenced for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 to undergo rigorous imprisonment for life which shall mean imprisonment for the remainder of his natural life and to pay fine of Rs.20,000/- (Rs. Twenty Thousand only) in default he shall undergo simple imprisonment for 2 (Two) months.
7.	Accused is sentenced for the offence punishable under Section 5(l) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 to undergo rigorous imprisonment for life which shall mean imprisonment for the remainder of his natural life and to pay fine of Rs.20,000/- (Rs. Twenty Thousand only) in default he shall undergo simple imprisonment for 2 (Two) months.
8.	Accused is sentenced for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 to undergo rigorous

	imprisonment for 5 (Five) years and to pay fine of Rs.10,000/- (Rs. Ten Thousand only) in default he shall undergo simple imprisonment for 1 (One) month.
9.	Accused is sentenced for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 to undergo rigorous imprisonment for 3 (Three) years and to pay fine of Rs.5,000/-(Rs. Five Thousand only) in default he shall undergo simple imprisonment for 15 (Fifteen) days.
10	The sentence of the death penalty be executed by hanging the accused Pandurang Somanna Kalli (Pujari) by the neck until dead subject to confirmation of the death sentence by the Hon'ble High Court of Judicature at Bombay Circuit Bench at Kolhapur under Section 407 read with Section 409(a) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
11	Warrant of Commitment Under Sentence of Death shall be issued in Form No. 41 in the Schedule-II of the Bharatiya Nagarik Suraksha Sanhita, 2023.
12	The record and proceedings of this case be immediately sent to the Hon'ble High Court of Judicature at Bombay Circuit Bench at Kolhapur

	under Section 407 of the Bharatiya Nagarik Suraksha Sanhita, 2023.
13	All the substantive sentences to run concurrently.
14	The fine amount sentenced for the offences punishable under Sections 103(1), 65(2), 238, 127(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4, 5(l), 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 against accused is cumulative in nature.
15	Bail bonds of accused shall be surrendered, if any.
16	If fine amount recovered from the accused shall be paid to the guardian of victim girl towards compensation under Section 395(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
17	The State Government is hereby directed to pay adequate compensation to the guardian of victim girl under Section 396 of the Bharatiya Nagarik Suraksha Sanhita, 2023. For that reason, the matter, be referred to District Legal Aid Service Committee, Sangli for determination of quantum of compensation.
18	The period of inquiry, investigation and trial undergone by the accused No.1 be set off vide Section 468 of the Bharatiya Nagarik Suraksha

	Sanhita, 2023.
19	The muddemal property i.e. 1. One Iron/Metallic Trunk, 2. One White Colour Sack, 3. One Mat, 4. One Hair found inside white colour sack, 5. One Polythene Bag having pink colour design, 6. One Blood Gauze Piece, 7. One Hair found over cushion 8. One Light Purple Colour Slack. 9. One Brown Colour Underwear (तपकीरी), 10. One Hair found over detergent soap inside iron/metallic trunk, 11. One Light Pink Colour Shirt, 12. Earth Soil Mixed with Blood, 13. One Earth Surface Cotton Swab, 14. One Normal Earth Soil, 15. One Hair Found Over Mat, 16. One Yellow Colour T Shirt having red colour stains, 17. One Light Blue Colour T Shirt, 18. One Brown Colour Pant, 19. One Green Colour Underwear being worthless be destroyed after period of appeal
20	One Memory Card as Make: SanDisk, Capacity: 8GB containing video recording of autopsy of deceased victim in MLC No. 100/2025 be kept along with Judgment.
21	A copy of the Judgment be given to the accused in gratis and forwarded to District Magistrate, Sangli vide Sections 392(4) and 406 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

22	Accused has been informed that he has right to prefer an appeal against this judgment and conviction order before the Hon'ble High Court under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023.
23	Accordingly, Special (POCSO) Case is disposed of.

Sangli

(Smt. J. A. Mohanty)

Date: 01.08.2026

Additional Sessions Judge, Sangli.