

FORM-A**IN THE COURT OF ADHOC ADDL. DISTRICT & SESSIONS JUDGE (FTSC), DISTRICT- KENDUJHAR**

**Present: Shri Bijaya Kumar Mishra, LL.M.,
Adhoc Addl. District & Sessions Judge, (FTSC),
Kendujhar.**

JO CODE-OD-90025

Date of Argument 15.07.2026

Dated this the 4th day of August, 2026

CNR: ODKJ01-001561-2025

S.T. Case No. 31/127 of 2025

**(Arising out of G.R. Case No. 1123 of 2025 in connection
with Kendujhar Town P.S Case No.445, dtd.04.07.2025)**

COMPLAINANT/ INFORMANT	STATE OF ODISHA
ADVOCATE REPRESENTING THE PROSECUTOR	Shri Patitapaban Nath, Special Public Prosecutor, Kendujhar
ACCUSED PERSON	Sanjay Parihal , aged about 25 years, S/o Late Bida Parihal of Vill-Khudaposi, P.S. Pandapada, Dist-Kendujhar At/Pre: Kashipur, P.S. Kendujhar Town, Dist- Kendujhar
ADVOCATE REPRESENTING THE ACCUSED PERSON	Sri Sambit Kumar Nayak and associates

FORM-B

Date of offence	From 19.06.2025 to 02.07.2025						
Date of FIR	04.07.2025						
Date of Charge Sheet	01.09.2025						
Date of Framing of Charges	25.11.2025						
Date of commencement of evidence	16.12.2025						
Date on which judgment is reserved	15.07.2026						
Date of the Judgment	04.08.2026						
Date of the Sentencing Order, if any	04.08.2026						
Accused Details:							
Rank of the Accused	Name of the Accused	Date of arrest	Date of Release on Bail	Offences Charged with	Whether Acquitted or Convicted	Sentence imposed	Period of Detention undergone during Trial for purpose of Section 468, B.N. S.S

1.	Sanjay Parihal	04.07.2025	-	u/ss. 64(2)(m)/351(3) of the BNS	Convicted	While convicting Sanjay Parihal u/s. 64(2)(m) of the BNS, I sentence him to undergo rigorous imprisonment for a period of ten years and pay fine of rupees ten thousand, in default, to under	05.07.2025 to 03.08.2026 judgment pronounced on 04.08.2026
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Status of the accused person: The above named accused person is produced in custody.

J U D G M E N T

The above named accused Sanjay Parihal being an Under Trial Prisoner and charged u/ss. 64(2)(m)/351(3) of the Bharatiya Nyaya Sanhita, 2023, in short, “B.N.S” was facing trial there under.

2. The case of the prosecution, in brief, as per the FIR dtd. 04.07.2025 of the victim (name and identity concealed) is

that for about one month prior to the FIR she left her house under Telkoi P.S. due to some quarrel in her family and came to Keonjhar. During day time, she used to move here and there and at night she used to sleep on the veranda of the shops in Kasipur area. In course of time, she came in contact with accused Sanjay Parihal who assured to arrange work for her. Since then she was in talking terms with the accused. About fifteen days back from the FIR, he forcibly committed sexual intercourse with her in a dilapidated house and threatened to commit her murder in case she would disclose about the same before others. Again on 02.07.2025, Wednesday, the accused came to her and took her to a dilapidated house in Kasipur area, removed her wearing apparels and committed her rape. On such information Kendujhar Town P.S. Case No.445 of 2025 was registered u/ss.64(m)/351(3) of the BNS, the matter was investigated and after completion of the same charge sheet was submitted against the accused u/ss. 64(2)(m)/ 351(3) of the BNS and the Court has also framed charge against the accused there under to stand trial.

3. Defence plea is complete denial of the prosecution charge and false implication.

4. Points for determination in this case are as follows:-

- (i) Whether about fifteen days prior to 04.07.2025 and on 02.07.2025 during night time in Kashipur accused Sanjay Parihal had committed rape on the victim repeatedly?
- (ii) Whether about fifteen days prior to 04.07.2025 and on 02.07.2025 during night time in Kashipur accused Sanjay Parihal had criminally intimidated the victim by threatening her to commit her murder with intent to cause alarm to her?

5. In order to prove the charge against the accused prosecution has examined as many as eleven witnesses of whom P.W.1 is Dr. Dipanwita Mohanty who medically examined the victim on police requisition, P.W.2 is the victim-informant herself, P.W.5 is Kabita Das who was working in the Sakhi One Stop Centre at the relevant time, P.W.6 Ms. Lagna Bebartha is the Scientific Officer of DFSL, Keonjhar, P.W.7 is the mother and P.W.8 is the cousin brother of the victim, P.W.9 Ms. Ananya Aiswariya is the counselor and scribe of the FIR, P.W.10 is Dr. Sunil Kumar Murmu who medically examined the accused on police requisition, P.W.11 is the I.O. of this case while P.W.3 and P.W.4 are police officials and seizure witnesses. In addition

to oral evidence prosecution produced and proved documents marked as Ext.P.1 to Ext.P.15 respectively.

On the other hand, neither any oral nor any documentary evidence has been adduced from the side of the accused.

6. As per the prosecution case, while the victim was moving in Keonjhar Town and was taking shelter on the veranda of the shops at night the accused came in her contact, assured her to provide work and had sexually abused her and threatened her of dire consequence in case she would disclose about the same before others. The victim as P.W.2 could identify the accused at the time of deposing evidence. According to her, her brother quarreled with her and drove her out of the house for which being annoyed she left her house and came to Keonjhar and when she was present at a Chhaka in Keonjhar, accused Sanjay brought her to a dilapidated house and committed rape (Kharap Kama) on her. On another occasion, he physically assaulted her and committed her rape (Kharap Kama). On hearing her shouting, the local people came and knowing about the occurrence they intimated the same to police and police came and rescued her. She narrated about the incident before police. Police sent her to Sakhi Centre and her report was prepared by one Madam. She was also medically examined being sent by the police.

Police seized her wearing apparels. While recording the evidence, the Court has observed that the witness appears that *she is less than average intelligence*. In her cross-examination by defence, she stated that after coming to Keonjhar she herself and accused Sanjay worked as labourers and both of them stayed in a rented house in Keonjhar, loved each other and continued to stay as wife and husband. There are shops and residential houses occupied by the people near the rented house and local people did not like their staying together and got a false case lodged against him. The Madam who prepared the report submitted the same at Police Station. She denied the suggestion that the paper was blank when Madam took her thumb impression on the same and that accused Sanjay had not committed rape (Kharap Kama/Bhul Kama) with her and that police had not examined her.

- 6.1.** From the aforesaid evidence of the victim, it becomes clear that while she was moving here and there in Keonjhar after leaving her village the accused came in her contact and had sexually abused her in a dilapidated house and on the second occasion on hearing her shouting local people could know about the same and intimated police and police rescued her and sent her to Sakhi One Stop Centre. The victim is not that intelligent as observed by the Court. She has clearly stated

about commission of rape of the accused twice. Her denial of the suggestion in cross-examination that the accused had not committed her rape confirms her statement in examination-in-chief that he committed her rape twice. She also confirms that the Madam had prepared the report and it was not blank when her thumb impression was taken. So, her statement in cross-examination that she herself and the accused loved each other and continued to stay as wife and husband in a rented house in Keonjhar further confirms that the accused had sexually abused her.

- 6.2.** P.W.9 was attached to Sakhi One Stop Centre working as a counselor and she had counseled the victim in Sakhi One Stop Centre and basing on the facts she collected during counseling prepared the FIR and submitted the same. According to her, the victim disclosed that there was some dispute in her family for which out of anger she left her house and came to Keonjhar, used to move in Keonjhar Bazar and at night used to take shelter on the varenda of a shop in Kashipur area and during her movements she came in contact with the accused who assured her to provide work and in one night he forcibly took her to a nearby abandoned house and committed her rape and threatened her of dire consequence in case she would disclose about the same before others. On

02.07.2025 the accused also committed her rape in that abandoned house. She proved the FIR marked as Ext.P.9 and thumb impression of the victim thereon as Ext.P.9/2. In cross-examination, she stated that on the version of the victim she prepared the FIR and denied the suggestion that the victim had not stated the aforesaid facts before her and that she had not scribed the FIR as per the own version of the victim.

7. On perusal of the FIR marked as Ext.P.9, it is found that P.W.9 has well corroborated the facts stated therein. She has also endorsed on the body of the FIR that she prepared the same as per the instructions of the victim, read over and explained the contents thereof to her who approved the same to be correct and put her thumb impression. Her endorsement with signature has been marked as Ext.P.9/1. I do not find any reason to disbelieve the evidence of P.W.9 as she is no way related to the victim nor inimical towards the accused, so that she will make false allegations against him in the FIR.
8. On 05.07.2025 the victim was medically examined on police requisition by P.W.1, Dr. Dipanwita Mohanty and she did not detect any sign and symptom of recent sexual intercourse with the victim nor any recent injury on her private part but at the time of her medical examination the victim disclosed

before P.W.1 that about one month back she came to Keonjhar as there was quarrel between her and her family members and while she was roaming in Keonjhar she came in contact with Sanjay Parihal who assured her to arrange some work for her and on 02.07.2025 Wednesday at night he committed her rape at Kasipur and threatened her to kill if she would disclose about the same before others. The Medical Examination Report of the victim has been marked as Ext.P.1. In cross-examination, she denied the suggestion that the victim had not made any such disclosure before her.

- 8.1.** P.W.7 is the mother of the victim and according to her the victim suffers from some mental abnormality and she used to take liquor. She had also left their house and came to Keonjhar. She was examined by police. P.W.7 was declared hostile by the prosecution and to the leading questions put to her u/s. 157 of the BSA she admitted to have stated before the I.O. that when the victim came to Keonjhar she used to move in Keonjhar area and took shelter on the varenda of the shop rooms at night but denied the suggestion to have stated before the I.O. that in Keonjhar the victim came in contact with the accused and the accused with assurance to arrange work for her had committed her rape. P.W.8 is the cousin brother of the victim and he stated that the victim suffers from some

mental abnormality and one day she left her house and went away to Talapada and from there to Harichandanpur area and she used to take shelter on the varendah of the shops while staying there. The accused whom he identified had committed her rape. He was also declared hostile by the prosecution and to the leading questions put to him u/s. 157 of the BSA he admitted to have been examined by the I.O. in connection with the incident of this case and stated before the I.O. that the victim went away to Kasipur but denied the suggestion to have stated before police that the victim came in contact with one Sanjay Parihal, the present accused, who assured her to provide work and had committed her rape. In cross-examination by defence, he stated that for the first time he could see the accused in Court in virtual mode. Since the day the victim left the house he had not seen her. He was examined by police in Telkoi P.S.

- 8.2.** P.W.7 and P.W.8 have corroborated the fact that the victim left her house and came to Keonjhar Town and used to take shelter on the varenda of shop rooms at night. P.W.8 stated that the accused had committed her rape. Though, P.Ws.7 and 8 turned hostile but the aforesaid facts deposed by them supporting the prosecution case is to be accepted. P.W.11 is the I.O. of this case and she admitted that P.W.5, P.W.7 and

P.W.8 who are hostile witnesses had stated the facts before her during investigation what was suggested to them u/s. 157 of the BSA. In her cross-examination, she stated that on the date of registration of the FIR the victim led them to Kasipur area and had identified the accused to them at a shop near a dilapidated house. It was also elicited from her that prior to the occurrence the victim had left her house and came to Keonjhar and was staying here and there including the dilapidated house. It was also elicited from her in cross-examination that the accused was staying in a temporary shed under Polythene roof near a temple of village Kasipur. There are also shops at a distance of about 20 meters from the dilapidated house but she has not examined the shopkeepers or the nearby house owners.

9. In the aforesaid background of the evidence of the prosecution witnesses I have heard argument at length from the learned Special Public Prosecutor as well as the learned defence counsel. In course of argument, the learned Special Public Prosecutor submitted that the Court itself has observed that the victim is less than average intelligence. So, high standard of evidence cannot be expected from her. There is evidence from the side of the prosecution that while she was moving here and there in Keonjhar Town after leaving her house, she used to take shelter on the varena of the shop

rooms. She came in contact with the accused who assured her to provide work and had sexually abused her. The scribe of the FIR is an Advocate by profession and was attached to Sakhi One Stop Centre who conducted counseling of the victim and accordingly prepared and submitted the FIR. If the victim had not disclosed the facts alleged in the FIR, then how could the scribe, P.W.9 could mention the same in the FIR. The doctor who medically examined the victim on police requisition has also corroborated that the accused had sexually abused her. The fact extracted from the victim in her cross-examination that she was staying in a rented house with the accused and both of them loved each other and lived together as wife and husband there has been contradicted by the defence by extracting from the I.O. that the accused was staying in a temporary shed under polythene roof near a temple of village Kashipur and the distance between the temporary shed and dilapidated house is approximately 50 meters. In view of the aforesaid statement, it cannot be believed that the accused and the victim were living together in a rented house in Kashipur area. Absence of injury on the private part of the victim as opined by the doctor who medically examined her cannot be a ground to disbelieve the prosecution case of sexual abuse of the victim by the accused as it is repeatedly held by the Hon'ble Courts that to prove a

case of rape injury on the private part of the victim is not mandatory. Therefore, considering the materials available on record and prosecution having successfully established the charge against the accused, he may be convicted as per law.

9.1. On the other hand, the learned defence counsel vehemently argued that the mother and cousin brother of the victim have not corroborated the prosecution case. There was no injury on the private part of the victim to prove sexual intercourse. The victim has admitted that she was in love with the accused and both of them lived together as wife and husband in a rented house and under such circumstances, if there was any sexual relationship between them it cannot be treated as an offence, rather consensual. The I.O. has not examined the shopkeepers and house owners of the nearby spot of the alleged occurrence. Since, prosecution has miserably failed to establish the charge against the accused he is entitled to an order of acquittal.

10. The arguments advanced from both sides along with the evidence adduced from the side of the prosecution are taken into consideration. Absence of injury on the private part of the victim is not a ground to disbelieve the case of commission of rape on her. The plea of love relationship between the accused and the victim and their living together

as wife and husband in a rented house cannot be believed. The victim being less than average intelligence high standard of evidence is not expected from her but she is consistent that she was sexually abused by the accused in two occasions. The informant being an advocate who conducted counseling of the victim and accordingly submitted FIR and deposed evidence, she cannot be disbelieved. The mother and cousin brother of the victim not being occurrence witnesses and being hostile to the prosecution, the fact they have deposed which supports the prosecution case is acceptable. Non-examination of the nearby shopkeepers and house owners of the spot of the occurrence may be a defect in investigation but that cannot be fatal to the prosecution and cannot be a ground to disbelieve and discard the prosecution case. Therefore, in my considered opinion prosecution has successfully established the charge u/s. 64(2)(m) of the BNS against the accused beyond all reasonable doubt. So far as the charge u/s. 351(3) of the BNS is concerned, though it is alleged in the FIR and deposed by the informant that the victim disclosed during her counseling that the accused had threatened to commit her murder but the victim is silent while deposing evidence in Court. Hence, that charge has not been established by the prosecution beyond reasonable doubt.

11. In the result, I find accused Sanjay Parihal not guilty u/s. 351(3) of the BNS and accordingly, I have acquitted him from the said charge u/s. 258(1) of the BNSS. But I find accused Sanjay Parihal guilty u/s. 64(2)(m) of the BNS and I have convicted him there under.

Considering the nature and gravity of the offence, the circumstance under which the same was committed and its impact on the civil society and the punishment prescribed for the same, the convict is not entitled to any of the benefits under the Probation of Offenders Act. Hence, I want to hear the parties on the question of sentence.

The Judgment is typed out to my dictation, corrected by me and pronounced in the open Court under my signature and seal of this Court on this the 4th day of August, 2026.

**Adhoc Addl. District & Sessions Judge,
(FTSC), Keonjhar
04.08.2026**

Dictated & corrected by me

**Adhoc Addl. District & Sessions Judge,
(FTSC), Keonjhar
04.08.2026**

Hearing on the question of sentence

12. Heard the learned counsel for the convict as well as the learned Special Public Prosecutor for the State on the

question of sentence. The learned counsel for the convict submitted that the convict is a first offender as no previous conviction against him has been established by the prosecution. There is also no criminal case pending against him in any other Court as no such information has been supplied by the prosecution. He is presently aged about 25 years and there is every opportunity that he will amend his conduct in future. So, lenient view may be taken while awarding sentence. On the other hand, the learned Special Public Prosecutor strongly opposed leniency in awarding sentence against the convict as when the victim being less than average intelligence was subjected to sexual assault repeatedly. Hence, he may be adequately punished under the law.

13. In consideration of the submissions of the learned counsel for the respective parties, while convicting Sanjay Parihal u/s. 64(2)(m) of the BNS, I sentence him to undergo rigorous imprisonment for a period of ten years and pay fine of rupees ten thousand, in default, to undergo rigorous imprisonment for a period of six months. Period already undergone as UTP be set off as per law.

The State authorities are directed to pay compensation of rupees five lakhs to the victim towards her future

rehabilitation which shall be kept in a joint fixed deposit account for a period of five years in any Nationalized Bank yielding highest rate of interest in the name of the victim and her mother as the victim is not intellectually sound and the same shall not be withdrawn before the period of maturity. Send an extract of this order to the District Legal Services Authority, Keonjhar for information and necessary action.

The Zimanama, if any, be cancelled, and the seized articles be destroyed excepting the seized documents if any, after four months of the appeal period, if no appeal is preferred, or as per the order of the Appellate Court in case of appeal.

The Sentence is typed out to my dictation, corrected by me and pronounced in the open Court under my signature and seal of this Court on this the **4th day of August, 2026.**

**Adhoc Addl. District & Sessions Judge,
(FTSC),Keonjhar
04.08.2026**

Dictated & corrected by me

**Adhoc Addl. District & Sessions Judge,
(FTSC),Keonjhar
04.08.2026**

FORM-C

LIST OF PROSECUTION / DEFENCE/ COURT WITNESSES		
A. Prosecution Witnesses		
RANK	NAME	<u>NATURE OF EVIDENCE</u> (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL JURIST, PANCH WITNESS, OTHER WITNESS)
P.W.1	Dr. Dipanwita Mohanty	Medical Jurist
P.W.2	Victim	Informant
P.W.3	Manoj Kumar Mahanta	Police witness (seizure witness)
P.W.4	Liyani Behera	Police witness (seizure witness)
P.W.5	Kabita Das	Official witness
P.W.6	Lagna Bebarta	Scientific Officer (DFSL, Kendujhar)
P.W.7	Mother of the victim (name concealed)	Independent witness
P.W.8	Cousin of the victim (name concealed)	Independent witness
P.W.9	Ananya Aishwarya	Scribe
P.W.10	Dr. Sunil Kumar Murmu	Medical Jurist
P.W.11	Herophina Hasda	Investigating Officer
B. Defence Witness:		

RANK	NAME	NATURE OF EVIDENCE	
NA	NA	NA	
C. Court Witnesses, if any-: NIL			
LIST OF PROSECUTION/ DEFENCE/ COURT EXHIBITS			
A. Prosecution Exhibits:-			
<u>Sl. No</u> <u>Number</u>	<u>Exhibits</u> <u>No.</u>	<u>Description of the</u> <u>Exhibit</u>	<u>Proved</u> <u>by/Atteste</u> <u>d by</u>
1	Ext.P.1	Medical Examination Report of the victim	P.W.1
2	Ext.P.1/1	Signature of P.W.1 on Ext.P.1	P.W.1
3	Ext.P.1/2	Signature of P.W.1 on Ext.P.1	P.W.1
4	Ext.P.1/3	Signature of P.W.1 on Ext.P.1	P.W.1
5	Ext.P.1/4	Thumb Impression of the victim on Ext.P.1	P.W.1
6	Ext.P.2	Seizure list in respect of biological samples of the accused	P.W.3
7	Ext.P.2/1	Signature of P.W.3 on Ext.P.2	P.W.3
8	Ext.P.2/2	Signature of Constable Gobardhan Paida on Ext.P.2	P.W.3
9	Ext.P.2/3	Signature of Constable Dipak Kumar Tudu on Ext.P.2	P.W.3
10	Ext.P.3	Seizure list in respect of	P.W.3

		wearing apparels of the accused	
11	Ext.P.3/1	Signature of P.W.3 on Ext.P.3	P.W.3
12	Ext.P.3/2	Signature of Constable Gobardhan Paida on Ext.P.3	P.W.3
13	Ext.P.4	Seizure list in respect of biological samples of the victim	P.W.4
14	Ext.P.4/1	Signature of P.W.4 on Ext.P.4	P.W.4
15	Ext.P.4/2	Signature of Constable Parbati Naik on Ext.P.4	P.W.4
16	Ext.P.4/3	Signature of Constable Lipi Sahoo on Ext.P.4	P.W.4
17	Ext.P.5	Seizure list in respect of wearing apparels of the victim	P.W.4
18	Ext.P.5/1	Signature of P.W.4 on Ext.P.5	P.W.4
19	Ext.P.6	Spot Visit Report with Spot Map	P.W.6
20	Ext.P.6/1	Signature of P.W.7 on Ext.P.6	P.W.6
21	Ext.P.7	CD containing photographs of the spot	P.W.6
22	Ext.P.7/1	Signature of P.W.7 on Ext.P.7	P.W.6
23	Ext.P.8	Certificate u/s. 63 of the BSA	P.W.6

24	Ext.P.8/1	Signature of P.W.7 on Ext.P.8	P.W.6
25	Ext.P.9	FIR	P.W.9
26	Ext.P.9/1	Endorsement with signature of P.W.9	P.W.9
27	Ext.P.9/2	Thumb Impression of the victim	P.W.9
28	Ext.P.10	Medical Examination Report of the accused	P.W.10
29	Ext.P.10/1	Signature of P.W.10 on Ext.P.10	P.W.10
30	Ext.P.9/2	Endorsement with signature of IIC Srikanta Sahu	P.W.11
31	Ext.P.9/3	Formal FIR	P.W.11
32	Ext.P.11	Compact Disc containing audio visual statement of the victim	P.W.11
33	Ext.P.12	Certificate u/s. 63of the BSA	P.W.11
34	Ext.P.12/1	Signature of P.W.11 on Ext.P.12	P.W.11
35	Ext.P.5/2	Signature of P.W.11 on Ext.P.5	P.W.11
36	Ext.P.4/4	Signature of P.W.11 on Ext.P.4	P.W.11
37	Ext.P.3/3	Signature of P.W.11 on Ext.P.3	P.W.11
38	Ext.P.2/4	Signature of P.W.11 on Ext.P.2	P.W.11

39	Ext.P.13	Spot Map	P.W.11
40	Ext.P.13/1	Signature of P.W.11 on Ext.P.13	P.W.11
41	Ext.P.14	Office copy of the forwarding letter in respect of sending of seized exhibits to SFSL, Bhubaneswar	P.W.11
42	Ext.P.14/1	Signature of P.W.11 on Ext.P.14	P.W.11
43	Ext.P.15	Acknowledgment issued by the SFSL, authority	P.W.11
B.Defence Exhibits, if any:-			
<u>Sl. No.</u>	<u>Exhibits No.</u>	<u>Description of the Exhibit</u>	<u>Proved by/ Attested by</u>
NIL			
C. Court Exhibits, if any			
<u>Sl. No</u>	<u>Exhibits Number</u>	<u>Description of the Exhibit</u>	<u>Proved by/ Attested by</u>
Nil			
D. Material Objects if any:			
<u>Sl. No.</u>	<u>Material Object No.</u>	<u>Description of the Exhibit</u>	<u>Proved by/ Attested by</u>
NIL			

**Adhoc Addl. District & Sessions Judge,
(FTSC),Keonjhar
04.08.2026**