

MHAH130005282022 	Presented on	:	26.05.2022		
	Registered on	:	27.05.2022		
	Decided on	:	13.05.2026		
	Duration	:	Y.	M.	D.
			03	11	16

Part 'A'

(Title Page of Judgment)

(Para 44(i) of Chapter VI of Criminal Manual)

<u>IN THE COURT OF ADDITIONAL SESSIONS JUDGE, AT : NEWASA,</u> <u>DIST. AHMEDNAGAR</u> (Presiding over by : Haribhau R. Waghmare)		
	SESSIONS CASE NO.49/2022	Exh. No.151
	Date of the Judgment :	13.05.2026
	Crime No.86/2022	Sonai Police Station, Tal. Newasa, Dist. Ahmednagar.
<u>PROSECUTION :</u>	The State of Maharashtra, Through : Police Station Officer, Sonai Police Station, Tal. Newasa, Dist. Ahmednagar.	
Represented by :	APP Shri. M. S. Kale	
<u>ACCUSED :</u>	Satish Bhagaji Vairagar, Age : 23 Yrs., Occ. : Labour, R/o. Khedaleparmanand, Tal. Newasa, Dist. Ahmednagar.	
Represented by :	Adv. Smt. V. N. Joshi	

Part 'B'

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

Date of Offence	:	13.03.2022
Date of F.I.R.	:	14.03.2022

Date of Charge-sheet	: 26.05.2022
Date of Framing of Charge	: 25.11.2022
Date of Commencement of Evidence	: 15.02.2025
Date on which Judgment is reserved :	: 11.05.2026
Date of Judgment	: 13.05.2026
Date of Sentencing Order, if any	: N/A

ACCUSED DETAILS

Rank of the accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences Charged with	Whether acquitted or convicted	Sentence Imposed	Period of Detention Undergone during trial for the purpose of Sec.468 of B.N.S.S.
--	Satish Bhagaji Vairagar,	18.03.2022	04.07.2022	U/Secs. 452, 324, 323, 427, 504, 366 r/w 34 and U/Secs. 376(2)(n), 506 of IPC	Acquitted	N/A	N/A

Part 'C'

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

LIST OF PROSECUTION/DEFENCE/COURT WITNESSES**A. PROSECUTION :**

Rank	Name	Nature of Evidence
PW-1	The victim (identity concealed)	The victim
PW-2	Father of victim (identity concealed)	Informant
PW-3	Abasaheb Navnath Rajale	Spot panch
PW-4	Raju Sakahari Shinde	Witness
PW-5	Balasaheb Piraji Patole	Panch
PW-6	Dr. Parmeshwar Gholve	Medical Officer
PW-7	Cousin of victim (name	Witness

	concealed)	
PW-8	Anita Navnath Sarode	Witness
PW-9	Dr. Santosh Bappasaheb Markad	Medical Officer
PW-10	P.I. Sachin Bagul	Investigating officer
PW11-	PSI Umesh Patange	Investigating officer
PW-12	API Sangita Giri	Investigating officer

B. DEFENCE WITNESSES, IF ANY :

Rank	Name	Nature of Evidence
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C. COURT WITNESSES, IF ANY :

Rank	Name	Nature of Evidence
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS**A. PROSECUTION :**

Sr.No.	Exhibit Number	Description
1.	Exh.14	Charge
2.	Exh.15	Pleas of the accused
3.	Exh.44/PW-1	Statement U/Sec. 313 of Cr.P.C.
4.	Exh.61/PW-2	FIR
5.	Exh.70/PW-3	Spot panchanama dtd.14.03.2022
6.	Exh.79/PW-5	Seizure panchanama of clothes of accused
7.	Exh.80/PW-5	Seizure panchanama of clothes of victim

8.	Exh.81/PW-5	Spot panchanama dtd.22.03.2022
9.	Exh.90/PW-6	M.L.C. of accused
10.	Exh.120/PW-9	MLC of victim
11.	Exh.128/PW-9	Letter sent to Court for adding sections
12.	Exh.129/PW-9	Letter sent to doctor for medical examination of the victim
13.	Exh.137/PW-11	Letter issued to CA
14.	Exh.138, 139 & 140/PW-11	Letters issued to doctor
15.	Exh.146/PW-12	Order of investigation
16.	Exh.147/PW-12	Letter issued to medical officer

B. DEFENCE :

Sr.No.	Exhibit Number	Description
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C. COURT WITNESSES, IF ANY :

Sr.No.	Exhibit Number	Description
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D. MATERIAL OBJECTS :

Sr.No.	Material Object Number	Description
1	Article-2/PW-1	Ash Colour pants
2	Article-3/PW-1	Full Sleeve White Shirt
3	Article-4/PW-1	Chocolaty Underpants
4	Article-5/PW-1	Purple Legins

5	Article-6/PW-1	Red, White and Black colour Top
6	Article-7/PW-1	Multi Colour Inner
7	Article-A/PW-2	Beer Bottle
8	Article-8, 9 & 10/PW-5	Packets in which clothes of accused were sealed
9	Article-11, 12 & 13/PW-5	Packets in which clothes of victim were sealed

:: J U D G M E N T ::

(Delivered on this 13th day of May, 2026)

Accused has faced the trial on the accusations that he along with three unknown persons, committed house trespass, caused hurt to the informant and his family members, caused wrongful loss to him, abused him, abducted the victim, repeatedly committed rape on her by threatening her, and thereby, committed offences P/U/Secs. 452, 324, 323, 427, 504, 366 r/w 34 and U/Secs. 376(2)(n), 506 of IPC.

2] In brief, prosecution case is that on 14.03.2022, informant lodged report Exh.61 with Sonai Police Station contending that on 13.03.2022 at about 10.30 p.m., when he was returning to the house after urination, accused and his three unknown associates came there from sugarcane field. One of them assaulted him by beer bottle by throwing it. Accused assaulted him by billhook by throwing it. Billhook hit him on his ribs, therefore, he fall down. One of the unknown person caught hold him. Accused and two unknown persons entered in the house. The informant contended that he shouted. His three

neighbour came there. The persons entered in the house, abused and beat his wife and three daughters including victim aged 17 years. Those persons scattered domestic articles. In the scuffle, *Mangalsutra* of his wife is misplaced. When the accused and those persons were forcibly taking the victim, his neighbour gathered there, made attempt to oppose them, at that time, accused shown billhook to them and said that if anybody comes in the way, he will finish them. The informant contended that the accused and those unknown persons took the victim in the sugarcane field. He contended that they took search of the victim in the sugarcane field, but they could not trace her.

3] Based on such report, police registered Cr. No.86/2022 for the offences P/U/Secs. 363, 324, 323, 452, 427 & 504 r/w 34 of IPC. Accused and victim were found at village Vadule. They were brought to the police station. Victim gave statement that accused abducted her and did repetitive sexual assaults on her against her will. Therefore, section 376(2)(n) of IPC came to be added. Accused and victim were referred for medical examination. After usual investigation, investigating officer submitted charge-sheet against the accused and the unknown persons U/Secs. 376, 376(n), 363, 324, 323, 452, 427 & 504 r/w 34 of IPC, before J.M.F.C., Newasa, who in turn has committed the case to this Court.

4] During the trial, accused is on bail.

5] My predecessor has framed charge against the

accused at Exh.14 for the offence stated in the opening para of this judgment. Accused pleaded not guilty and claimed to be tried. From the line of cross-examination of the prosecution witnesses and statement U/Sec.313 of the Criminal Procedure Code, defence of the accused is of total denial and false implication in the case. It is his specific defence that he and victim were in love with each other, victim was intending to marry him, however, her parents were opposing it, therefore, he is foisted in false case.

6] Following points arise for determination and I record findings thereon for the reasons followed thereafter.

Sr. No.	<u>POINTS</u>	<u>FINDINGS</u>
1.	Does the prosecution prove that on 13.03.2022, accused and his three associates, assaulted the informant, his wife and daughters including the victim and committed criminal house-trespass ?	NO.
2.	Does it further prove that on the above day and time, accused abducted the victim with intention to have illicit relations with her and repeatedly committed rape on her ?	NO.
3.	What order ?	Accused is Acquitted.

Reasons for the above findings are as follows :

: REASONS :

7] To bring home guilt of the accused, prosecution has examined in all twelve witnesses and also relied on certain documents. I will refer and discuss material document at the relevant place.

8] In defence, no evidence is adduced by the accused.

POINT Nos. 1 to 3 :

9] Informant (PW-2) is victim's father. He deposed that on 13.03.2022 at about 10.30 p.m. when he was returning to house after urination and was entering in the house, accused and three unknown persons beat him. One of them assaulted him by throwing beer bottle, therefore, he fell down. Accused assaulted him by billhook. Three persons entered in the house and beat his wife, victim and snatched golden Mangalsutra from the neck of his wife. He deposed that accused forcibly dragged the victim and took her away. His three neighbour had come there, but accused threatened them at the point of billhook saying that if they intervene, he will kill them. He has deposed that after 4 – 5 days, police traced the victim. She told him that accused had taken her to village Vadule. He has identified the accused and beer bottle Art.-A.

10] Though informant admits that victim and accused were studying in the same school, but he has denied that they were in love of each others. He has deposed that he had not given description of the unknown persons to the police. He is unable to say age of the victim. He has denied that he has

lodged false report against the accused, so that he should not marry the victim.

11] Victim (PW-1) has deposed that on 13.03.2022 at about 10.30 p.m., accused and his three colleagues assaulted her parents by beer bottle and billhook. She deposed that thereafter they dragged her till sugarcane field and then took her to village Vadule where the accused told that they had come from village Rajale-Wasti. She deposed that the accused kept her in a room and did sexual intercourse with her for 5 to 6 times against her will by threatening to kill her, therefore, she could not disclose it to anybody. She has deposed that on 18.03.2022, police brought her to police station and recorded her statement as well as sent her for medical examination at Rural Hospital, Newasa and Civil Hospital at Ahmednagar. She has deposed that her statement Exh.44 is recorded by the Magistrate U/Sec.164 of Cr.P.C. She has identified her clothes Articles-5 to 7 and clothes of the accused Articles-2 to 4.

12] In the cross-examination, victim admits that accused was studying in her school. She admits that accused resides at the distance of half kilometer from her house. Her cross-examination shows that she and accused were knowing each others. She has denied that she was in love with accused and was intending to marry him, but her parents were opposing it, therefore, accused is foisted in a false case.

13] Victim's cousin (PW-7) has deposed that on 13.03.2022 at about 10.00 – 10.30 p.m., informant called him to his house. The informant told him that the accused and three unknown persons have beaten him and taken away the victim.

He has deposed that they took the search of the victim, but they could not find her, therefore, they went to the police station, where the informant lodged report. He too denied that the victim was in love with accused and was intending to marry him, but her parents were not ready to it, therefore, informant has lodged false report. Suffice to say here that he is not eye witness to the incident. His evidence is relevant only to the extent that informant narrated him the incident and he accompanied with the informant while lodging the report.

14] APP Shri. M. S. Kale for the prosecution has submitted that victim's evidence is unshaken. Her evidence is supported by the testimony of her father. Anita Sarode (PW-8) is relative of the accused. She has deposed that accused had taken victim to her house. Medical evidence shows that victim's hymen was tear. So, he submits, victim's testimony is reliable and clearly proves that the accused abducted the victim and sexually assaulted her.

15] *Per contra*, adv. Smt. V. N. Joshi for the accused has submitted that prosecution evidence is unreliable. The occurrence of the incident of abduction dtd.13.03.2022 is itself unreliable. As per the prosecution, accused and his three associates have beaten the informant, victim, her mother and sisters, but no injury certificate of anybody is placed on record. As per the prosecution case, the victim was taken in the sugarcane crop, but no injury is found to the victim. Victim has deposed that on the next day, she was taken to village Vadule, but she has not stated where she was kept throughout the night. The house where the victim was allegedly kept at Vadule is

surrounded by residential houses and more particularly of the religion of the victim, but the victim has not disclosed the incident to anybody, nor either of the witness from that place is examined by the prosecution. At the time of alleged incident, victim was above 20 years of age, but in the FIR the informant has deliberately stated victim's age as 17 years. All these aspects makes prosecution case doubtful about the occurrence of incident of abduction itself. To support these submissions, adv. Smt. V. N. Joshi has relied on Dayanand Malikarjun Khandare Vs. State of Maharashtra & Anr., 2025 ALL MR (Cri) 2317 (Bom. H.C.) and Manohar s/o Tikaram Kapgate Vs. The State of Maharashtra, 2025 ALL MR (Cri) 2200 (Bom. H.C.). She further submitted that in fact the victim was in love with the accused and was intending to marry him, therefore, the informant has concocted false story against the accused. So, she prayed for acquitting the accused.

16] Panch Abasaheb Rajale (PW-3) is examined by the prosecution to prove spot panchnama Exh.70 of the informant's house, however, he has not supported the prosecution case. He has only admitted his signature on the spot panchnama and has denied preparing panchnama in his presence. He has denied seizure of beer bottle Art. 'A' in his presence. Prosecution has examined in all three investigating officers but none of them depose about seizure beer bottle. Important to note that spot panchnama Exh.70, clearly mentions that nothing is seized from the spot. So, how beer bottle has come on record is very doubtful. Consequently, the prosecution fails to prove spot panchnama Exh.70.

17] Raju Shinde (PW-4) is cited as eye witness to the incident by the prosecution. However, he has denied that he has witnessed the incident. He is cross-examined by the prosecution but nothing is brought on record to show that he is deposing false.

18] Through panch Balasaheb Patole (PW-5) prosecution has proved seizure of clothes of the accused vide panchnama Exh.79 and spot panchnama Exh.81 of the spot where the accused had allegedly kept the victim at village Vadule. Balasaheb Patole PW-5 has deposed that on 22/03/2022 victim produced her clothes in the police station and they were seized vide panchnama Exh.80. But the victim has deposed that she does not know who produced her clothes to the police. Therefore, seizure of victim's clothes vide panchnama Exh.80 from victim is unreliable.

19] Dr. Parmeshwar Gholve (PW-6) has examined the accused and found that accused is capable to perform sexual activities. Accused does not deny this fact. Dr. Santosh Markad (PW-9) has deposed that he has examined the victim on 19.03.2022. He has deposed that victim gave history that accused took her to Vadule and on 14/03/2022 did sexual intercourse with her on multiple times. He has deposed that no external injury was found to the victim but old hymen tear was present. In the cross-examination, he admits that hymen tear is possible by multiple causes like cycling, etc. In the cross-examination, victim has admitted that she was going to the

school on bicycle and was doing agricultural work. Therefore, mere hymen tear is not sufficient to conclude sexual assault on the victim.

20] PI Sachin Bagul (PW-10) has deposed that investigation of this case was with PSI Umesh Patange. He has deposed that he has made some investigation when it was with PSI Umesh Patange. He has deposed that he recorded victim's statement and added section for rape and referred the victim for medical examination. PSI Umesh Patange (PW-11) has deposed that he sent seized muddemal to C.A. and gave letter to the doctor for issuance of medical certificate. So, his evidence is formal in nature. API Sangita Giri (PW-12) has deposed that she visited the spot of incidents and drawn spot panchnamas Exhs.70 & 81 as well as seized clothes of the accused and victim vide panchnamas Exh.80. She has deposed that she gave letter to the doctor for medical examinations of the accused and victim. All the three investigating officers have deposed that in the investigation they revealed that accused abducted the victim and sexually assaulted her.

21] Anita Sarode (PW-8) is maternal uncle's wife of the accused. She has deposed that three years back on the day of Holi accused had come to her house with a girl and said that the girl is his friend. She deposed that they stayed for two days. She has deposed that police came to her house and took the accused and that girl. But in the cross-examination, she has deposed that accused alone had come to her house and went

back on the same day. She has deposed that police had not enquired with her. It seems that accused being her nephew, she is deposing lie to help him. Her evidence shows that on the day of holi accused and victim went to her house and stayed there for two days. So, the prime question falls for consideration is whether the accused abducted the victim and did sexual assault on her.

22] Victim has deposed that her date of birth is 08/10/2001. Alleged incident is dtd.13/03/2022. As such, on the date of incident victim was above 20 years of age. As said above, victim's cousin (PW-7) is not eye witness to the incident and the so called eye witness Raju Shinde (PW-4) has not supported the prosecution case. So, ocular evidence remains to be of the victim and her father only. It is well settled that victim's sole testimony is sufficient to convict the accused, provided it inspires confidence.

23] Informant has deposed that when he was assaulted by beer bottle, he fall down. He has deposed that accused assaulted him by throwing billhook. He has deposed that thereafter three persons entered in his house, beat his wife, victim and snatched Mangalsutra from the neck of his wife. However, in the FIR, the informant has stated that he fall down by assault of billhook given by the accused. He has further stated in the FIR that three persons entered in his house, abused and beat his wife and three daughters including the victim. In the FIR, he has stated that in the scuffle, Mangalsutra of his wife is misplaced. It should be noted that billhook is pointed and sharp cutting weapon. So, if some one is assaulted by billhook,

then obviously he will sustain bleeding injury.

24] The victim has deposed that on 13.03.2022, accused and his three associates assaulted her parents by billhook and beer bottle. She does not depose that she or her sisters were assaulted in that incident, nor she deposes that the accused or either of his associate had entered in the house. The victim has deposed that her statement Exh.44 U/Sec.164 of Cr.P.C. is recorded by the Magistrate. In the statement Exh.44, the victim has stated that the accused and his associates came in front of her house and beaten her father, therefore, her father shouted. She does not depose how many associates were with the accused. She has deposed that after hearing shouting of her father, she, her mother and her elder sister came out of the house. Here also, the victim does not state that accused or any of of his associate had entered in the house. She has stated that the persons beat them and her father by beer bottle, billhook and sword. Informant does not say that they were beaten by sword. If some one is assaulted by sword, then bleeding injuries are bound to be caused.

25] It is important to note that as per the prosecution case, the accused and his associates had assaulted the informant, his wife and three daughters including victim, but no injury certificate of anybody is placed on record, nor either victim or informant deposed that either of them had sustained bleeding injury. On the contrary, Dr. Santosh Markad (PW-9) who has examined the victim within six days from the date of alleged incident has specifically deposed that no external injury was found to the victim. So, it makes the prosecution case doubtful

that accused or any of his associate had assaulted the informant or his family members by billhook or sword.

26] The victim has deposed that accused had kept her in a room for five days. She does not depose that she was confined by the accused. The spot panchanama Exh.81 shows the house in which the victim was allegedly kept is of four rooms in a row and the room in which the victim was allegedly kept is adm.10 ft. X 15 ft. The spot panchanama does not show that the house has facility of washroom. In front of that house there seems two houses. It is not victim's case that the accused was staying in the room throughout day and night. In those five days, the victim would have gone out of the room at least to answer nature's call. The victim has deposed that distance from her house to village Vadule is about 15 to 20 k.m. and she was taken to village Vadule in the day light on motorcycle. She does not say that on the way or from the house at Vadule, she made any attempt to escape from the custody of the accused or she gave any alarm for her help. In the statement Exh.44, the victim has deposed that at village Vadule, accused threatened her by showing gun, but in the cross-examination, she has deposed that she had not seen gun in the hands of accused.

27] The above discussion shows that there are material inconsistencies in the evidence of victim and her father. Victim's conduct does not suite to her testimony that accused forcibly took her to village Vadule. Considering the entire evidence on record, even if it is accepted that accused and victim went to village Vadule and stayed at the house of Anita Sarode (PW-8), still it appears that the victim on her own accompanied the

accused. Victim was major, therefore, even if there are sexual contacts between the accused and victim, they appear to be with the victim's consent. So, the prosecution fails to prove that accused abducted the victim and did sexual intercourse with her against her will. **Therefore, I answer point Nos.1 and 2 in the negative.** Resultantly, the accused deserves for acquittal. Seized muddemal viz. Beer Bottle, Jeans Pants, Shirt, Underwear, Leggings, Top and knicker etc, being worthless, they need to be destroyed after appeal period. **Point No.3 is answered accordingly.**

In the result, I pass the following order :

:: O R D E R ::

- (1) Accused stands acquitted and set at liberty U/Sec.258(1) of B.N.S.S., 2023 for the offences P/U/Secs. 452, 324, 323, 427, 504, 366 r/w 34 and U/Secs. 376(2)(n), 506 of IPC.
- (2) His bail bonds stand discharged.
- (3) Seized muddemal Beer Bottle, Jeans Pants, Shirt, Underwear, Leggings, Top and knicker etc. be destroyed after appeal period.

Date : 13/05/2026
Place : NEWASA

(Haribhau R. Waghmare)
Addl. Sessions Judge
JO Code : MH001652