

IN THE COURT OF THE SPECIAL JUDGE, AMBAJOGAI**Spl. Case No. 79/2025**

State of Maharashtra

Versus

Satish S/o Annasaheb Munde & others

ORDER BELOW EXH. 19

The prosecution case, as reflected in the FIR lodged by complainant Kaveri Vyankatesh Gunjolam, involves serious allegations of gang rape, criminal intimidation, and trafficking. The FIR narrates that the complainant, after disembarking at Parli railway station, was lured by certain accused persons, forcibly taken to a farm, and sexually assaulted by multiple individuals. The investigation culminated in filing of the chargesheet, which includes medical and forensic evidence regarding the age of the victim.

2. Heard both sides and perused record.

3. The defence has argued that the victim herself asserted her age to be 20 years before medical and judicial authorities, which would render the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act") inapplicable. It is further submitted that independent witness statements are lacking, and that the alleged offences are groundless and unsupported by cogent evidence.

4. The prosecution has opposed the discharge, highlighting the gravity of the alleged offences which include gang

rape of a child. Attention is drawn to the medical report and ossification test which place the victim's age between 16-18 years. The prosecution submits that, for the purpose of framing charge or considering discharge, only the material in the chargesheet can be considered, not the defence contentions.

5. The law governing discharge of accused in sessions cases is now embodied in Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), analogous to Section 227 CrPC. The settled legal position, as laid down in *State of Orissa v. Debendra Nath Padhi* [(2005) 1 SCC 568], is that while considering discharge, only the material and documents forming part of the chargesheet may be considered. The probable defence of the accused or documents outside the chargesheet cannot be looked into at this stage.

6. Further, the Supreme has held that if on a consideration of the material, there is no sufficient ground for proceeding, discharge must follow. However, where a strong suspicion exists regarding commission of the offence, it is sufficient to frame charge and send the matter to trial.

7. At the discharge/framing of charge stage, the Court is required to only ascertain whether there is a prima facie case to proceed, and not to conduct a detailed weighing of evidence or a mini-trial.

8. In the present case, the chargesheet contains a medical report, including an ossification test and radiological

assessment, which places the age of the victim in the bracket of 16 to 18 years. The complainant's categorical assertion in some statements of being 20 years old is contradicted by the medical report. Where the age falls within such medical margin, and prosecution materials suggest possibility of the victim being under 18, the question must be left for trial and benefit cannot be given to the accused at the discharge stage.

9. The allegations of gang rape and trafficking are extremely grave. The FIR itself clearly implicates the accused. The Supreme Court has consistently held that charges should be framed where the accusations are serious and supported by material leading to strong suspicion against the accused.

10. At the stage of discharge, the task of the Court is confined to considering whether the prosecution allegations and supporting documents disclose the commission of the alleged offence, not to adjudicate upon the defence contentions. Documents outside the chargesheet and probable defence must be excluded from consideration.

11. Given that the age of the victim as per medical reports remains inconclusive but within the legal threshold, and that gravity of the offence and supporting prima facie material is found in the chargesheet, the Court cannot conclude at this juncture that the victim was not a child under the POCSO Act.

12. For all the foregoing reasons, and applying the judicial tests from Supreme Court jurisprudence, I proceed to pass following order.

ORDER

The discharge application filed by accused Satish S/o Annasaheb Munde and Bhagwat S/o Angad Kande stands rejected.

Date : 14/11/2025

Ambajogai.

(Dr. Rachna R. Tehra)

Special Judge,

Ambajogai.

Certificate

I affirm that, the contents of this P.D.F file are word to word as per original Judgment / order.

Dictated on : 14/11/2025

Transcribed on : 14/11/2025

Checked and signed on : 14/11/2025

Sd/-

(Kailas D. Chavan)

Stenographer