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SPECIAL CASE NO. 96 OF 2024

EXH NO. 48

<p>FORM NO. XXXII Part 'A' (Title Page of Judgment) [Para 44(i) of Chapter VI of Criminal Manual]</p>	
<p><u>IN THE COURT OF JUDGE, SPECIAL COURT, BULDHANA</u> (Presided over by Shaikh Akbar Shaikh Jafar)</p>	
Date of Judgment :	30/4/2026
<u>SPECIAL CASE NO.</u>	<u>96/2024</u>
FIR/Crime No.	875/2024
Police Station :	Buldhana City, Dist.Buldhana
Prosecution	State of Maharashtra, through Police Station Buldhana City
Represented by	Learned Public Prosecutor Shri A.A.Kesale,
Accused	Aadesh Subhash Hiwale, Age-23 years, R/o Milind Nagar,Buldhana, Tq.Dist.Buldhana
Represented by	Learned Counsel Shri N.R.Giri

Part 'B'

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

Date of offence	7/10/2024
Date of FIR	7/10/2024
Date of Charge-sheet	2/12/2024
Date of framing of Charges	11/12/2025
Date of commencement of Evidence	26/2/2026
Date on which Judgment is reserved	30/4/2026
Date of the Judgment	30/4/2026
Date of the Sentencing order, if any	--

Accused Details

Rank of the accused	Name of accused	Date of arrest	Date of Release on Bail	Offences charged with	Whether acquitted or convicted	Sentence imposed	Period of detention undergone during Trial for purpose of Section 428
	Aadesh Subhash Hiwale	4/11/24	15/11/24	U/Sec. 137(2) of BNS and Sec 12 of the POCSO Act	Accused is acquitted.	--	--

Part 'C'

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

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

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
PW 1	Mayur Gajanan Hiwale [Exh.30],	Panch witness,
PW 2	Victim [Exh.32]	Victim,
PW 3	Mother of victim [Exh.34],	Mother of victim,
PW 4	Aasha Shamrao Pandav [Exh.39],	Police Witness,
PW 5	Ravi Madhavrao More [Exh.42],	Investigating Officer,

B. DEFENCE WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
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C. COURT WITNESSES, IF ANY

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, MEDICAL WITNESS, PANCH WITNESS)
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LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution :

Sr. No.	Exhibit	Description
1.	PW 4-Exh.40, Exh.41,	Report, printed FIR,
2.	PW 5- Exh.35, Exh.36, Exh.37,Exh.42-A, Exh.43, Exh.44,	Spot panchnama, spot panchnama, seizure panchnama, muddemal receipt, portion mark "A" in the statement of mother of victim, E-Saksha of victim.

B. Defence :

Sr. No.	Exhibit	Description
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C. Court Exhibits :

Sr. No.	Exhibit	Description
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D. Material Objects:

Sr. No.	Material Object Number	Description
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JUDGMENT

(Delivered on this 30th day of April, 2026)

1] Accused is facing trial for the offence punishable under Section 137(2) of the Bharatiya Nyaya Sanhita [for short "the BNS"] and Section 12 of the Protection of Children From Sexual Offences Act, 2012 [for short "the POCSO Act"]

2] Prosecution case, in short, is as under;

Informant is the resident of Milind Nagar, Buldhana. She has four daughters and a son. Her one of daughter victim is aged about 17 years 1 month and is learning in Jijamata Mahavidyalaya in 12th standard. Accused resides in front of their house. Accused used to ask victim that not to go to college and not leave the house. He used to threaten victim that he wants to marry her. On 7.10.2024, informant had gone on her work and her son had also gone to college. Victim alone was in the house. At about 3.00 p.m., informant returned home, but did not find victim in the house. She inquired about victim to adjacent house owners and also inquired to her daughters by making phone calls. But they also told that victim did not come to their house. Thereafter, informant came to know that accused came to their house and victim by taking her clothes and Rs.10,000/- went with him. As accused kidnapped minor victim girl on the pretext of marriage, informant went to the police station and lodged report.

3] During investigation, it was found that accused kidnapped minor victim. Thereafter, Crime No. 875/2024 for the offence punishable under Section 137(2) of the BNS and Section 12 of the the POCSO Act came to be registered against the accused at Police Station, Buldhana City. During the course of investigation, Investigating Officer visited the spot and prepared spot panchanama. Accused came to be arrested. He recorded statement of witnesses. The vehicle used in the crime was also seized. During

investigation, having found ample evidence against accused, Investigating Officer filed charge-sheet before this Court.

4] My learned predecessor framed charge against accused for the offence punishable under Section 137(2) of the BNS and Section 12 of the the POCSO Act vide Exh.24. Contents of charge were read over and explained to accused in vernacular to which accused pleaded not guilty and claimed to be tried. Defence of accused as gathered from the statement recorded under Section 351 of Bharatiya Nagarik Suraksha Sanhita,2023 (S.313 of Cr.P.C.) and the suggestions to the prosecution witnesses is of total denial.

5] Heard learned APP Shri Kesale for the prosecution and learned Counsel Shri Giri for accused.

6] Considering the case of prosecution, evidence on record and defence of accused, following points arise for my determination. The points and my findings thereon for the reasons here-in-after are as under;

Sr. No.	Points	Findings
1]	Does the prosecution prove that on 7.10.2024 at about 15.00 hours at Milind Nagar, Buldhana, accused kidnapped minor victim girl aged about 17 years 1 month from lawful guardianship of her parents without their consent and thereby committed an	

	offence punishable under Section 137(2) of the Bharatiya Nyaya Sanhita ?	In the negative.
2]	Does it further prove that on the same date, time and place, accused committed sexual harassment on minor victim girl aged about 17 years 1 month by committing above-said act and thereby committed an offence punishable under Section 12 of the POCSO Act ?	In the negative.
3]	What order ?	Accused is acquitted as per final order.

REASONS

7] According to prosecution, at the relevant time, accused kidnapped minor victim girl and thereby committed sexual harassment upon her.

8] In order to strengthen the aforesaid charges, prosecution has examined in all five witnesses. Evidence of PW 1 Mayur Gajanan Hiwale is at Exh.30, evidence of victim is at Exh.32, evidence of mother of victim is at Exh.32, evidence of Aasha Shamrao Pandav is at Exh.39 and evidence of Investigating Officer Ravi Madhavrao More is at Exh.42. Prosecution closed its evidence by filing pursis Exh.45.

9] Defence side did not adduce evidence.

AS TO POINT NOS. 1 & 2

10] Both the points are interlinked with each other, hence taken together for decision.

11] PW 1 is the panch witness. He did not support to the case of prosecution. He denied that on 8.10.2024, police called him and prepared panchnama in his presence. Even after cross-examination by learned APP, he has not supported to the prosecution in any way.

12] PW 2 is the victim. She deposed that accused is her husband and she was having love relation with him since two years. She denied that her sister abused her and accused seeing together. She denied that her mother saw her and accused while talking and therefore, she took her in the house and locked the door outside. She denied that accused said her that he wants to marry her. She further denied that on 7.10.2024, her younger sister saw accused while sitting in the house. She denied that due to fear of beating accused, she along with accused eloped with him to Sambhaji Nagar. She also denied that she resided there with accused. However, she admitted that accused is her husband. She turned against the prosecution. Even after cross-examination by the prosecution at length, she has not supported the prosecution story in any way. The witness denied the contents of portion mark "A" of her statement. She also denied that she stated the said contents to the police.

13] PW 3 mother of victim also did not support to the case of prosecution. She deposed that at the time of incident, victim was learning in Jijamata College, Buldhana. However, she denied that accused was saying victim not to go to college and he wants to marry her. She also denied that on 7.10.2024, victim eloped with accused. She denied that on the pretext of marriage, accused kidnapped victim and therefore, she lodged report. She turned against the prosecution. Even after cross-examination by the prosecution at length, she has not supported the prosecution story in any way. The witness denied the contents of portion mark "A" of her statement. She also denied that she stated the said contents to the police.

14] The prosecution thereafter examined police witness LPC PW 4 Aasha Pandav. She deposed that on 7.10.2024 while she was on station diary duty, informant came to police station and lodged report about kidnapping of her daughter. She reduced report into writing [Exh.40] as per say of informant and registered FIR [Exh.41]. It is to note that though this witness has proved report [Exh.40] and printed FIR [Exh.41], but PW 3 did not support to the contents of report and turned against prosecution. Therefore, evidence of this witness is not so fruitful to the case of prosecution.

15] The prosecution thereafter examined Investigating Officer PW 5 Ravi Madhavrao More. He deposed that he received investigation of Crime No.875/2021 along with report and printed

FIR. Thereafter, he conducted spot panchanama in presence of two panchas and then recorded statements of witnesses. He went to Sambhaji Nagar, arrested accused and prepared panchnama of the spot of incident. He then brought accused and victim to the police station. He seized motorcycle from the possession of accused under seizure panchnama. He deposed that informant has stated portion mark "A" of her statement vide Exh.43. He recorded statement of victim vide Exh.44. However, unless and until, there is material evidence on record, this evidence does not help the prosecution to prove its case. The fact remains that the material witnesses have not supported the prosecution story. Thus, the evidence of PW 5 Ravi Madhavrao More is formal in nature.

16] Considering the above discussion, in absence of any corroboration to the prosecution by the prime witnesses, I hold that prosecution failed to prove any of the charge levelled against accused. Hence, the accused is entitled for the benefit of doubt. Accordingly, Points No.1 and 2 are answered in the negative.

17] In the result, following order is passed;

ORDER

1] Accused Aadesh Subhash Hiwale is acquitted of the offences punishable under Section 137(2) of the Bharatiya Nyaya Sanhita and Section 12 of the Protection of Children From Sexual Offences Act, 2012, vide Section 258(1) of The Bharatiya Nagarik Suraksha Sanhita [Section 235(1) of Cr.P.C.].

- 2] His bail bond stands cancelled.
- 3] Seized motorcycle is already handed over on supratnama. It shall be made absolute.
- 4] Accused shall furnish P.B. & S.B. of 15,000/- (Rs. Fifteen Thousand only) with one solvent surety of the like amount as per Section 481 of The Bharatiya Nagarik Suraksha Sanhita [Section 437-A of Cr.P.C.].

[Judgment is dictated and pronounced in open Court.]

Buldhana
Date: 30.4.2026

(Shaikh Akbar Shaikh Jafar)
Judge, Special Court,
Buldhana