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	<u>Exhibit No. 59</u>	

Special (POCSO) Case No. 39/2026

Form No. XXXII

Part 'A'

(Title Page of Judgment)

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

IN THE COURT OF SESSIONS AT GADCHIROLI <i>Present : Pravin V. Chatur,</i> Additional Sessions Judge		
Crime No. 50/2026, u/S. 137(2), 64, 96 of BNS, Sec. 3, 4, 11, 12 of POCSO Act Police Station : Gadchiroli, Dist. Gadchiroli		
COMPLAINANT		STATE OF MAHARASHTRA Through P.S.O. of Police Station Gadchiroli, Tah. & District : Gadchiroli
REPRESENTED BY		Learned APP. Shri Bhandekar
ACCUSED	A1	Rohmotula @ Rocky Naimul Hak Age - 19 Yrs., Occu. Labour, R/o. Angarbhasa, Post- Goti, Dist. Dinajpur State West Bengal.
REPRESENTED BY		Learned Adv. Shri Bhat

Part 'B'

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

Date of Offence	10.01.2026
Date of FIR	11.01.2026
Date of Chargesheet	04.05.2026
Date of Framing of Charges	15.06.2026

Date of commencement of evidence	20.06.2026
Date on which judgment is reserved	21.07.2026
Date of the Judgment	21.07.2026
Date of the 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 purpose of Section 428, Cr.PC.
A1	Rohmotula @ Rocky Naimul Hak	09.03.2026 1.5.2026	Under trial	u/S. 137(2), 64(2)(n), 96 of BNS, Sec. 4, 6 of POCSO Act	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 (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW1	XYZ mother of victim	Informant
PW2	ABC Victim	Victim
PW3	Shivaji Tejrao Deshmukh	I.O.
PW4	Dr Shashikant K. Badela	Medical Officer

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
DW1	---Nil---	

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
CW1	---Nil---	-

LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS**A. Prosecution :**

Sr. No.	Exhibit Number	Description
1	Exhibit P-10/PW1	Report
2	Exhibit P-11/PW1	FIR
3	Exhibit P-13/PW1	Statement of victim
4	Exhibit P-17/PW3	Electricity Bill
5	Exhibit P-18/PW3	E Saksha Certificate
6	Exhibit P-19/PW3	Statement of victim recorded by WPO
7	Exhibit P-20/PW3	Arrest Form
8	Exhibit P-21/PW3	Letter for reason of arrest
9	Exhibit P-22/PW3	Letter to Jabrul Hak
10	Exhibit P-23/PW3	Order of keeping the accused in observation home at Shrilchar.
11	Exhibit P-24/PW3	Notice to panch for spot panchanama of house of accused.
12	Exhibit P-25/PW3	extract of Station Dairy
13	Exhibit P-26/PW3	order of Juvenile Court for presence of accused in the court of Spl Judge, Sessions Court, Shribhumi.
14	Exhibit P-27/PW3	Order of Principal Judge Shribhumi
15	Exhibit P-28/PW3	Transit remand.
16	Exhibit P-29/PW3	Arrest Form
17	Exhibit P-30/PW3	reason of arrest informed to accused
18	Exhibit P-31/PW3	by letter informed to mother of accused
19	Exhibit P-33/PW4	Letter for medical examination of accused

20	Exhibit P-33A/PW4	medical Examination report.
21	Exhibit P-34/PW4	Form -B
22	Exhibit P-35/PW4	Chemical Analysis report
23	Exhibit P-36/PW4	Discharge card
24	Exhibit P-37/PW4	Letter sent to IO regarding handover the documents.
25	Exhibit P-39	MLC
26	Exhibit P-40	Form B
27	Exhibit P-41	Examination Report of accused
28	Exhibit P-42	report of medical examination of victim
29	Exhibit P-43	Letter for admission in Sakhi Onestop
30	Exhibit P-44	Letter for custody of the victim
31	Exhibit P-45	Letter for report of sample of victim
32	Exhibit P-46	Daily report of Police Station
33	Exhibit P-47	State of victim u/s 183 of BNSS
34	Exhibit P-48	Instruction Letter
35	Exhibit P-49	MLC dtd 1.5.2026
36	Exhibit P-50	Letter for examination report of accused
37	Exhibit P-51	MLC dtd 2.5.2026
38	Exhibit P-52	Letter for medical examination
39	Exhibit P-53	Letter for report of medical examination of accused
40	Exhibit P-54	MLC dtd 4.5.2026
41	Exhibit P-55	Pursis

B. Defence :

Sr. No.	Exhibit Number	Description
1	-Nil	-

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	--NIL--	-

D. Material Objects :

Sr. No.	Material Object Number	Description
1	-	-

JUDGMENT

(Delivered on this 21st day of July, 2026)

1] The accused is prosecuted for offences punishable under Sections 137(2), 64(2)(n), and 96 of the *Bhartiya Nyaya Sanhita, 2023* (hereinafter “BNS”), and under Section 3 punishable u/s. 4 and Section 5 punishable u/s. 6 of the *Protection of Children from Sexual Offences Act, 2012* (hereinafter “POCSO Act”).

2] PW1 XYZ, mother of the victim PW2 ABC, has been engaged in domestic work at the residence of Madhuri Ladke, Camp Area, for the past five years. When the mistress’s daughters visited, the victim would accompany them to their house and reside there for two to three days. For the last four to five months, the victim had been residing at the owner’s house, though she returned home daily before going back to stay with them.

3] On 10/01/2026, the victim returned home at about 11:00 a.m. At that time, the informant was proceeding to the owner’s house for work. Except for the victim, no one was present at home. When the informant and her husband returned at 5:00 p.m., the victim was not found. Upon inquiry, their son stated that when he came home at 3:00 p.m., the house was locked, so he went back to play. The informant then contacted her employer, Madhuri Ladke, to ascertain whether the victim had come to her house. The employer denied. Thereafter, the informant, accompanied by her husband and son, visited the employer’s house, where again it was confirmed that the victim had not come.

4] Subsequently, her son telephoned relatives at Jaravandi, Chikhali, Dogargaon, and Chandrapur, but none reported the victim's arrival. Despite extensive search, the victim remained untraceable. Consequently, the informant lodged Report Exhibit 10, suspecting that her daughter, aged 17 years and 5 months, had been abducted by an unknown person.

5] The offence was registered vide FIR No. 50/2026 at Gadchiroli Police Station. PW3 Shivaji Deshmukh, Police Sub-Inspector, was entrusted with the investigation. Panch witnesses were instructed accordingly. The victim's mother pointed out the spot, i.e., the victim's residence, and a panchnama, Exhibit 15 was prepared. The electricity bill, Exhibit 17 of the residence was seized from the victim's father and filed with the charge-sheet. The process was videographed in the *e-Saksh* app, and a certificate, Exhibit 18 containing photographs and hash values was prepared.

6] The victim's brother disclosed her mobile number, from which the IO obtained CDR and SDR details, including IMEI. Analysis revealed frequent contact with the accused. Location data placed the accused at Nagpur Railway Station, with his last trace in West Bengal. Surveillance indicated movement towards his native village near North Dinajpur. Further inquiry established that the accused hailed from Punagram District, Sribhumi, Assam. Accordingly, on 07/02/2026, the IO proceeded with a police team.

7] On 08/03/2026, at Ramakrishnanagar Police Station, the accused was identified and apprehended. Upon search of his residence, the victim was found concealed under a bed. Her identity was

confirmed through Aadhaar. Statement, Exhibit 19 was recorded by a female officer in Hindi.

8] The accused was arrested at 8:00 a.m. the following day, and Arrest Form Exhibit 20 was prepared under Section 36 IPC. He was produced before the Special Court, Sribhumi. Defence counsel produced a photocopy of Aadhaar showing the accused as a minor. The Court directed production before the Juvenile Justice Board (JJB), Sribhumi, and ordered inquiry into his date of birth, noting Aadhaar was not conclusive proof. The JJB ordered his placement in the observation home at Srilachar, which is at Exhibit 23.

9] On 19/03/2026, the JJB directed production of evidence regarding the accused's age. Meanwhile, a panchnama notice, Exhibit 24 of the accused's house was issued. Based on the victim's statement, offences under POCSO were added, and a station diary note, Exhibit 25 was made. Pending age inquiry, the IO returned to Gadchiroli with the victim, who was medically examined by PW4 Dr. Shashikant Badela.

10] Further investigation was handed over to WPI Madhuri Misal. On 29/04/2026, the JJB declared by order Exhibit 26 that the accused not a child but an adult, directing production before the Special Judge, Sessions Court, Sribhumi. However, the CJM, Sribhumi, ordered, Exhibit 27 production on 30/04/2026. Transit remand, Exhibit 28 of six days was granted.

11] The accused was brought to Gadchiroli Police Station on 01/05/2026. Arrest Form Exhibit 29 was filled, and reasons for arrest were communicated vide Exhibit 30, including a translated Bengali copy. His mother was informed telephonically (Exhibit 31). On

completion of investigation, WPI Misal filed charge-sheet on 07/05/2026 before the Sessions Court.

12] The accused was granted bail on 05/06/2026 but failed to furnish solvent surety, remaining in custody as an undertrial. Charge Exhibit 7 was framed, read over, and explained in vernacular. The accused pleaded not guilty. The prosecution examined PW1 XYZ, mother of the victim, PW2 ABC, the victim, PW3 Shivaji Deshmukh, Investigating Officer (IO), and PW4 Dr. Shashikant Badela. Evidence was closed vide pursis Exhibit 55. Statement of the accused u/s 351 BNS was recorded at Exhibit 58. From cross-examination and statement, defence appears to be of false implication. No defence evidence was adduced u/s 29 POCSO Act.

13] I have heard the learned APP for the prosecution and the learned advocate for the accused. Findings on each point are recorded with reasons to follow.

No.	<u>Points</u>	<u>Findings</u>
1.	Does the prosecution prove that, on 10.01.2026, the accused kidnapped the minor victim by enticing her out of the keeping of lawful guardianship without the consent of her lawful guardian, thereby committing an offence punishable under Section 137(2) of the Bharatiya Nyaya Sanhita, 2023?	No
2.	Does the prosecution further prove that, between 04.03.2026 and 08.03.2026 at Punagram, Assam, the accused committed rape repeatedly on the minor victim girl who was incapable of giving consent, thereby committing an offence punishable under Section 64(2)(n) of the Bharatiya Nyaya Sanhita, 2023?	No
3.	Does the prosecution further prove that, on 10.01.2026 at Gadchiroli, Tahsil and District	No

	Gadchiroli, the accused induced the minor victim girl to go from Gadchiroli, Maharashtra to Punagram, Assam with the intent that she may be forced to illicit intercourse, thereby committing an offence punishable under Section 96 of the Bharatiya Nyaya Sanhita, 2023?	
4.	Does the prosecution further prove that, between 04.03.2026 and 08.03.2026 at Punagram, Assam, the accused committed penetrative sexual assault and aggravated penetrative sexual assault on the minor victim girl under the age of 18 years, thereby committing an offence punishable under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012?	No
5.	What order?	Accused is acquitted

REASONS

As to Points No. 1 to 4:

14] All the above-said points are discussed together.

15] As per the prosecution case, on 10.01.2026, when the victim went missing, she was alleged to be a minor, i.e., below 18 years of age. Her mother was not at home, and the victim was alone. At that time, some unknown person allegedly kidnapped her, and thereafter her whereabouts remained unknown. PW1 XYZ lodged Report Exhibit 10 at Police Station, Gadchiroli.

16] It is, therefore, incumbent upon the prosecution to first establish that the victim was a minor on the date of the incident. The victim herself stated her date of birth as 10.08.2008. The Investigating Officer collected the birth certificate from the Registrar of Births and Deaths, Municipal Council, Gadchiroli, and produced it with the charge-sheet. As per the said certificate, the date of birth is 10.08.2008.

However, the prosecution did not examine the issuing authority. The mother of the victim deposed that the victim was below 18 years of age. Yet, in absence of corroborative documentary evidence, it cannot be conclusively held that the victim was minor on 10.01.2026 or aged 17 years and 5 months as alleged.

17] Now, it remains to be seen whether the accused had kidnapped the victim and, thereafter, had physical intercourse with her until she was traced.

18] The victim stated that she became acquainted with the accused through an Instagram account. He maintained an Instagram account under the name "Rocky". They exchanged mobile numbers and began communicating. The accused repeatedly asked her to meet him and proposed that they stay together. Although she initially refused, the accused kept pressuring her. Consequently, she went to Nagpur alone, where the accused met her. From there, the accused took her to Mumbai, where they stayed for one day. Thereafter, they went to Bengal and stayed at the house of his uncle for one and a half months. Subsequently, they went to Assam and stayed there for about 8 to 15 days, after which they were apprehended by the Gadchiroli Police in Assam.

19] The victim stated that she went to Nagpur and in the cross-examination admitted that she went to Nagpur at her own will, while she stated that the accused took her from Nagpur to Mumbai. The learned Advocate for the accused argued that there must be an intention to kidnap from the very beginning, as well as some force or inducement exercised by the accused while taking the victim with him. He further argued that even assuming for the sake of argument that the

victim was taken by the accused, there was no hue and cry raised by the victim during her travel from Nagpur to Mumbai, Mumbai to Bengal, and Bengal to Assam. Therefore, the learned Advocate for the accused submitted that according to the prosecution, the accused has not committed an offence under Section 137(1)(b) of the BBNS.

20] The said provision is reproduced hereunder for ready reference:

(1) Kidnapping is of two kinds: kidnapping from India, and kidnapping from lawful guardianship—

(a) whoever conveys any person beyond the limits of India without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from India;

(b) whoever takes or entices any child or any person of unsound mind, out of the keeping of the lawful guardian of such child or person of unsound mind, without the consent of such guardian, is said to kidnap such child or person from lawful guardianship.

21] Despite initial reluctance, the victim went alone to Nagpur, where the accused also arrived. From there, he took her to Mumbai, where they stayed for one day, then to Bengal for about one and a half months, and thereafter to Assam for 8–15 days, until apprehended by Gadchiroli Police.

22] According to the prosecution, on the day of the incident, the victim was below 18 years of age and was a child. However, as discussed above, for want of legal evidence establishing her date of birth, the prosecution has failed to prove that the victim was a minor. Even assuming for the sake of argument that she was a minor, it must

still be proved that the accused took away or enticed the victim out of the custody of the informant. In the entire prosecution case and the evidence brought on record, there is nothing to show that on 10.01.2026, the accused came to Gadchiroli and took the victim away with him. On the contrary, it appears that the victim left her house and went to Nagpur alone. She admitted in cross-examination that on 10.01.2026, she left her home of her own free will. Moreover, there is no evidence that the accused took the victim with him from Nagpur to Mumbai and thereafter from Bengal to Assam under compulsion. Nor is there any evidence that at Nagpur, the accused enticed the victim to accompany him to Mumbai. Furthermore, throughout the travel, she never raised any hue or cry for help indicating that she was kidnapped.

23] As argued by the defence counsel that kidnapping requires initial intent and inducement or force. From her testimony, it appears she went to Nagpur of her own volition. Even assuming she accompanied the accused, there was no evidence of resistance or hue and cry during travel from Nagpur to Mumbai, Bengal, and Assam. Counsel further referred to Section 137(1)(b) BNS, 2023, defining kidnapping from lawful guardianship. Therefore, in respect of the alleged offence, it cannot be held that the accused took away or enticed the victim so as to constitute kidnapping from the lawful custody of the informant.

24] From the evidence of PW-3 Shivaji, it appears that the victim was found concealed under a cot in the house of the accused. Although the victim stated that the police came to Assam and brought her to Gadchiroli, she did not testify that she was concealed under a cot, nor did she state that the accused had confined her in his house.

Therefore, for want of such evidence, no presumption can be drawn under Section 29 of the POCSO Act.

25] The incident dates to 10.01.2026, when the victim went missing, and she was eventually traced on 08.03.2026 in Assam. According to the prosecution, during this period, the accused had physical intercourse with the victim. Upon location of the victim, she was taken to Police Station Shribhumi, where her statement (Exh. 19) was recorded. In the said statement, she mentioned that on 4th March, they went to Punagram, Assam, to the house of his maternal uncle and began staying separately. She narrated to the police that during the period from 4th March to 8th March, they had physical relations. Based on this statement recorded by PW-3 Shivaji, offences under the POCSO Act were added. In view of the above, the burden rests on the prosecution to prove that the accused had physical relations with the victim during the said period despite knowing she was a minor.

26] According to the prosecution, after the victim was brought to Gadchiroli, she was produced at the Women and Child Hospital, Gadchiroli, on 13.03.2026. The then Medical Officer, PW-4 Dr. Shashikant Badole, examined her. During the medical examination, he observed, “old healed hymen tear at 3, 6, and 9 o'clock positions”. Consequently, he opined that “the possibility of sexual assault could not be ruled out”.

27] From the victim's testimony, it appears she was in the company of the accused. However, she did not state that any physical relations occurred between them. Therefore, the learned APP cross-examined her. During cross-examination, she stated that she did not recollect whether, at the time of recording her statement, she had stated

that during their stay at Punagram, Assam, from 4th March to 8th March, they had physical relations. Therefore, for want of substantive evidence from the victim regarding physical relations or sexual assault by the accused, the medical evidence of PW-4 Dr. Shashikant Badole is of no assistance to the prosecution.

28] It is pertinent to mention here that PW-4 Dr. Shashikant Badole admitted that as per the radiologist's report, the age of the victim appears to be between 17 and 19 years. Referring to the ossification report, Exhibit 38, PW-4 Dr. Shashikant Badole agreed that as of her examination on 13.03.2026, the victim might have been 18 years of age. In view of this admission and in the absence of documentary evidence proving her date of birth, it can be concluded that on the date of the incident of dated 10.01.2026, the victim was 18 years of age. Therefore, the accused is not required to adduce rebuttal evidence under Section 29 of the POCSO Act, as rightly submitted by the learned Advocate for the accused.

29] In view of the above discussion, even assuming for the sake of argument that on 10.01.2026 the victim left her house, remained in the company of the accused until 13.03.2026, and had physical relations with him, given that she is established to be 18 years of age, such physical relations would be consensual, and she had left her house with the understanding of an adult.

30] Thus the prosecution has failed to prove that the accused lured or enticed the victim, removed her from the custody of her parents, or sexually assaulted her knowing her to be a minor. Consequently, the prosecution has failed to establish the charges against the accused under Sections 137(2), 64(2)(n), and 96 of the BNS, 2023

and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012. The prosecution has not brought sufficient evidence on record to sustain these charges, nor is there any corroborative evidence from which it can be inferred that the accused committed the alleged offences. Therefore, I answer Points No. 1 to 4 in the negative.

31] In view of the foregoing reasoning, the accused is entitled to be acquitted by extending the benefit of doubt, as the prosecution has failed to prove the charges beyond reasonable doubt. Accordingly, I pass the following order:

ORDER

- 1) The accused **Rohmotula @ Rocky Naimul Hak**, Age 19 years, R/o. Angarbhasa, Post Goti, District Dinajpur, State West Bengal is acquitted under Section 258 (1) of the Bhartiya Nagrik Suraksha Sanhita, 2023 from the charges under Sections 137(2), 64(2)(n) and 96 of the Bhartiya Nyay Sanhita, 2023 and Sections 4, 6 of the Protection of Children from Sexual Offences Act, 2012.
- 2) The accused is in jail, hence, he be set at liberty forthwith if not required in any other crime or case.
- 3) The accused should furnish surety of Rs.50,000/- in compliance of Section 480 (1) of the Bhartiya Nagrik Suraksha Sanhita, 2023, with submitting his address proof and contact numbers.
- 4) The proceeding of this case is closed.

(Judgment dictated and pronounced in the open Court)

Date :- 21.07.2026

(**Pravin V. Chatur**)
Additional Sessions Judge,
Gadchiroli.