

Presented on - 03 / 01 / 2022  
Registered on - 03 / 01 / 2022  
Decided on - 07 / 03 / 2026  
Duration - Yrs. Mts. Days  
2 - 2 - 4

CNR- MHPU01-000099-2022 Exhibit - 40

<p style="text-align: center;"><b><u>IN THE COURT OF SPECIAL JUDGE, AT PUNE,</u></b> (Presiding Officer : Sucheta M. Takalikar, Special &amp; Additional Judge, Pune)  Date of Judgment : 07/03/2026  Special Case No. 6/2022</p>	
<p>FIR No.- 379/2021, U/s. 376, 376(2)(n), 506 of the IPC and Sections 3, 4, 5(l), 6 of the POCSO Act Police station – Warje-Malwadi, Pune</p>	
<p style="text-align: center;"><b>FORM No.XXXII</b> <b>[Title page of Judgment]</b> <b>PART 'A'</b> <b>[Para 44(i) of Chapter VI of Criminal Manual]</b></p>	
Prosecution	State of Maharashtra, Through A.P.I. P.S., Warje-Malwadi
REPRESENTED BY	Ld. Addl. Public Prosecutor, Mrs. A. V. Bhagat for state
ACCUSED	<b>Rohidas Gorakshnath Hulmukhe</b> Age : 28 years, Occ.: Delivery boy -R/at – Gokul Pathar, Sairaj Colony, Warje-Malwadi, Pune.
REPRESENTED BY	Learned Advocate Sachin D. Swami for accused

**PART 'B'**

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

Date of offence	:	05/11/2021
Date of FIR	:	06/11/2021
Date of Chargesheet	:	03/01/2022
Date of Framing of Charges	:	11/11/2025
Date of commencement of evidence	:	06/03/2026
Date on which judgment is reserved	:	--
Date of the judgment	:	07/03/2026
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 Cr. P. C.
1	Rohidas Gorakshanath Hulmukhe	07/11/2021	20/01/2023	U/Ss. 376, 376(2)(n), 506 of IPC and U/Ss. 3, 4, 5(l), 6 of POCSO Act	<b>Acquitted</b>	-----	-----

**PART 'C'**

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

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

**A. Prosecution :**

RANK	Exh. No.	NAME	NATURE OF EVIDENCE (EYE WITNESS, POLICE WITNESS, EXPERT WITNESS, MEDICAL WITNESS, PANCH WITNESS, OTHER WITNESS)
PW.1	32	Aunt of victim	Complainant
PW.2	35	Victim	Witness

**B. Defence Witnesses, if any :**

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

**C. Court Witnesses, if any :**

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

**LIST OF PROSECUTION / DEFENCE / COURT EXHIBITS.**

**A. Prosecution :**

Sr. No.	Exhibit Number	Description
1	13, 14	Statements of witnesses recorded under Section statement U/s. 164 of the Cr. PC of Cr.P.C.
2	33	FIR

3	33-A	Printed FIR
4	34	Birth certificate of victim

**B. Defence Exhibits :**  
**Admitted documents :**

Sr. No.	Exhibit Number	Description
1	36	Spot panchanama
2	37	Potency test report of accused
3	38	Medico-Legal Examination report of victim

**C. Court Exhibits :**

Sr. No.	Exhibit Number	Description
1	29	Charge
2	30	Plea

**D. Material Objects :**

Sr. No.	Material Object Number	Description
1		----- Nil -----

**J U D G M E N T**  
**(decided on 07/03/2026)**

The accused has been prosecuted for the offences punishable under Sections 376, 376(2)(n), 506 of the Indian Penal Code, 1860 (hereinafter referred as 'IPC') and for offence

punishable under Sections 3, 4, 5(l), 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred as 'POCSO Act, 2012').

**The prosecution case in brief stated as under –**

2] That, the complainant is the parental aunt of the Victim Girl ABC. The Victim Girl ABC was 15 years 6 months old. It is stated that father of victim was working as a plumber. He is her brother. On 05/11/2021 her brother along with his wife had been to his village by leaving victim girl ABC and her brother in the house and asked complainant to keep watch on them. Thereafter at about 11.00 p.m. complainant assured that victim and her brother have slept in the house. Then at about 11.30 brother of victim wake up and went to the house of complainant by weeping and narrated her that victim is not in the house. Thereafter complainant made phone call on the mobile phone of victim, but she did not pick up, then she made phone call to the father of victim. After a while, complainant saw that victim is coming from behind the house, she inquired with her, victim narrated that when she was sleeping in the house, accused came near the house and called her from the window and asked her to come out of the house. Then victim went out of the house. Accused took her behind the house and that time he threatened her not to shout, otherwise he will kill her, then he removed her legging and nicker and committed forcible vaginal intercourse with her. Thereafter he threatened not to disclose about the incident, otherwise he will kill her

parents and victim also. Then complainant made phone call to the father of victim girl and asked them to return to the house. Therefore, the complainant went to Police Station and lodged the complaint of the said incident.

On the basis of said complaint Cr. No. 379/2021 for the offences punishable under Sections 376, 376(2)(n), 506 of IPC, 1860 and for offence punishable under Sections 3, 4, 5(l), 6 of the POCSO Act, 2012 came to be registered against the accused.

3] Lady PSI S. A. Jadhav, Warje police station, carried out the investigation. During the course of investigation she went to the spot of incident and prepared the spot panchanama in presence of the two panchas, sent the victim ABC girl for her medical examination, recorded the statements of victim ABC and other witnesses, arrested the accused and prepared the arrest panchanama. She sent the accused for his medical examination and also sent the victim ABC girl and complainant to the Magistrate for recording their statements and after completion of due investigation she submitted charge-sheet against the accused.

4] The accused is on bail.

5] Smt. K. D. Shirbhate, Spl. Judge, Pune framed the charge against the accused for the offence punishable under Sections 376, 376(2)(n), 506 of IPC, 1860 and for offence

punishable under Sections 3, 4, 5(l), 6 of the POCSO Act, 2012. The contents of the charge read over and explained to the accused in vernacular to which he pleaded not guilty and claimed to be tried. His defence is total denial and false implication.

6] To prove its case, prosecution has examined in all two witnesses and also relied on the documentary evidence.

7] In this case, PW1 and 2 have not stated anything against the accused. Therefore no incriminating circumstances are found against the accused. Hence, the statement of accused under Section 313 of Cr.PC has been dispensed with.

8] I have heard Ld. APP for the State and Ld. Advocate for the accused at length.

9] From the facts and circumstances and evidence recorded by the prosecution following points arise for my determination. I have noted my findings for the reasons stated below:-

<b>Sr. No.</b>	<b><u>POINTS</u></b>	<b>...</b>	<b><u>FINDINGS</u></b>
1)	Does the prosecution prove that on the date of incident i.e. 05/11/2021 the victim was child within the meaning of Section 2(d) of the POCSO Act, 2012 ?	...	<b>In the negative</b>

- 2) Does the prosecution prove that, on 05/11/2021 at about 11.30 p.m. and prior to 05/11/2021, behind house of victim at Vasundhara Vanvikas Sanstha, Gokulnagar, Warje-Malwadi, Pune, forcibly established sexual relations with minor victim girl, aged about 15 years against her will and committed offence of rape ? ... **In the negative**
- 3) Does the prosecution prove that accused during aforesaid period and place committed repeated sexual relations with victim ? ... **In the negative**
- 4) Does the prosecution prove that accused on above said date, time and place threatened the victim girl ABC ? ... **In the negative**
- 5) Does the prosecution prove that accused committed penetrative sexual assault on victim girl ABC ? ... **In the negative**
- 6) Does the prosecution prove that accused committed repeated aggravated penetrative sexual assault on victim girl ABC ? ... **In the negative**
- 7) What offence, if any is made out ? ... **In the negative**
- 8) What order ? ... **As per final order.**

: REASONS :

As to point No.1:

10] In this case, the prosecution came with the theory that Victim Girl ABC was 15 years old as on the date of alleged incident.

11] PW1 is the informant. She stated that the Victim Girl ABC is her niece. Upon perusal of her evidence, it appears that she has not stated the age or birth date of victim.

12] PW2 is the Victim Girl ABC. She also has not stated her date of birth.

13] In the case in hand the prosecution has produced Birth Certificate of the Victim Girl ABC. It is at Exh.34. The prosecution has not examined the author of the Birth Certificate therefore, birth certificate though executed, but the same cannot be taken into consideration. The date of birth of the Victim Girl ABC has not been brought on record.

14] Under such circumstances, it is difficult to believe that on 05/11/2021, the Victim Girl ABC was below 18 years of age. Therefore, the prosecution has failed to prove that the Victim Girl ABC was below 18 years of age. Hence, I answer to Point No.1 in the negative.

**As to point Nos. 2 to 6 :-**

15] These the points are interlinked with each other and therefore, I have decided to discuss them together.

16] To prove the charges levelled against the accused, the prosecution relied on the evidence of in all two witnesses.

17] PW1 is the parental aunt of the Victim Girl ABC and the informant. She testified that on 05/11/2021, her brother and his wife had been to their village and victim and her brother were in the house. Victim had gone out of the house, therefore she took search of the victim, she found near the house. That time she inquired with victim, victim told that as she could not sleep she had been to her friend's house. On next day her parents came to Pune. Then complainant along with victim and her parents went to police station and complainant lodged the complaint. She does not know what is written in the complaint. In her examination-in-chief, she stated that it did not happen that accused called Victim Girl ABC out of the house and then forcibly committed sexual relation with her. Therefore, Ld. APP cross-examined her. In the cross-examination also she totally denied the incident.

18] PW2 is the Victim Girl ABC. She in her evidence stated that on 05/11/2021 at about 11.30 p.m. she had been to her friend's house. She does not know anything and nothing was happened with her. She has not supported to the prosecution.

Therefore, Ld. APP cross-examined her. In her cross-examination also she denied the incident.

19] In the light of above evidence, I have heard Ld. APP and Ld. Advocate for the accused at length. They argued as per their stand.

20] I have minutely gone through the evidence. In the case in hand, PW1 is the parental aunt of the Victim Girl ABC. She has not supported to the prosecution. Hence, her evidence also not helpful to the prosecution.

21] PW2 Victim Girl ABC has also not stated anything against the accused. Hence, the evidence of PW2 Victim Girl ABC is not helpful to the prosecution.

22] Defence has admitted spot panchanama and medical report of victim, but upon perusal of medical report of victim, no physical or genital injury is found. Further spot panchanama and medical report are corroborative piece of evidence. However in this case there is no substantive evidence, therefore corroborative evidence cannot be taken into consideration.

23] Thus, in the case in hand, PW1 and PW2 are the material witnesses whose evidence would be the direct evidence. But they have not supported to the prosecution. Therefore, in absence of direct evidence on record, the prosecution has failed

to prove the charges levelled against the accused. Hence, I answer to Point Nos.2 to 6 in the negative respectively.

**As to Point No.7:-**

24] In view of my findings on Point Nos.1 to 6, no any offence is made out against the accused. Hence, I answer to Point No.7 in the negative.

**As to Point No.8:-**

25] In view of the above discussion on record, the prosecution has utterly failed to prove the charges leveled against the accused beyond reasonable doubt. Therefore, benefit of doubt goes to the accused. Hence, the accused deserves to be acquitted and I pass the following order:-

**ORDER**

- 1) The accused **Rohidas Gorakshanath Hulmukhe** is hereby acquitted as per provisions of Section 235 (1) of Code of Criminal Procedure of the offences punishable under Sections 376, 376(2)(n), 506 of the Indian Penal Code, 1860 and Sections 3, 4, 5(1), 6 of the Protection of Children from Sexual Offences Act, 2012.
- 2) Bail bonds of the accused shall stand cancelled.
- 3) Accused is directed to execute Personal Bond and furnish Surety Bond of Rs.15,000/- with one or two solvent surety of like amount in compliance of the provisions of Section 437-A

of the the Code of Criminal Procedure.

(Dictated and pronounced in open Court in presence of Ld. A.P.P, Accused and his Ld. Advocate.)

Place – Pune  
Date – 07/03/2026

**(Sucheta M. Takalikar)**  
**Special Judge &**  
Additional Sessions Judge, Pune.