

Form A

IN THE COURT OF JUDGE, SPECIAL(POCSO)-CUM-ADDITIONAL DISTRICT & SESSIONS JUDGE, DINHATA, COOCHBEHAR	
Present : Sharmistha Ghosh-I (JO Code-WB00997) Judge, Special (POCSO)-cum-Additional District & Sessions Judge, Dinhata	
<u>POCSO Case no. 44 of 2025</u> POCSOTrial No. 01 (10) 2025	
<u>(CNR No.WBCB05-000592-2025)</u>	
Dinhata Women P.S. Case No. 99/2025 dated 18.08.2025	
Complainant	State of West Bengal Or Name of the complainant : Name not disclosed (mother of the victim girl)
Represented by	Mr. Taherul Islam, Ld. Advocate on behalf of the State
Accused	Amit Barman and others
Represented by	Mr. Abdul Mabud Sarkar, Ld. Advocates for the accused

Form B

Date of Offence	05.08.2025
Date of FIR	18.08.2025
Date of Charge-sheet	16.10.2025
Date of Framing of Charges	31.10.2025
Date of commencement of evidence	28.04.2026
Date on which Judgment is reserved	06.06.2026
Date of the Judgment	06.06.2026
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 468 BNSS.
1.	Amit Barman	04.09.25 arrested	31.10.25	u/s 4 of POCSO Act	Acquitted		

FORM C

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	Name not disclosed	Mother of the victim girl
PW2	Name not disclosed	The victim girl
PW3	Dr. Purna Chandra Hansda	Medical Officer
PW4	LSI Suniti Subba	Investigating Officer

B. Defence witnesses :

Rank	Name	Nature of evidence (Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witness)

C. Court witnesses, if any :

Rank	Name	Nature of evidence (Eye witness, Police witness, Expert witness, Medical witness, Panch witness, Other witness)

LIST OF PROSECUTION/DEFENCE/COURT EXHIBITS

A. Prosecution

Sr. No.	Exhibit Number	Description
1.	Ext.P-1	Written complaint
2.	Ext.P-1/1	Signature of P.W-1 on the complaint
3.	Ext.P-1/2	Receiving endorsement
4.	Ext.P-2	Medical examination report
5.	Ext. P-2/1	Signature of P.W-1 on the medical report
6.	Ext.P-3	Carbon copy of seizure-list
7.	Ext.P-3/1 series	Signatures of P.W-1 on the seizure-list
8.	Ext.P-4	Statement of the victim u/s 183 of BNSS.

9.	Ext.P-4/1 series	Signatures of victim on her statement u/s 183 of BNSS.
10.	Ext. P-5	Formal FIR
11.	Ext. P-7	Rough sketch map with index of the P.O
12.	Ext.P-8	Potency test report

B. Defence

Sr. No.	Exhibit Number	Description

C. Court Exhibits

Sr. No.	Exhibit Number	Description

D. Material Objects :

Sr. No.	Material Object Number	Description

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

1. The case of the prosecution, in brief, is that the complainant’s minor daughter aged about 17 years, 8 months is a student of class XII of Petla Nabi Bakas High School. The accused NO. 1 used to visit the house of the complainant as because he was the friend of complainant’s brother. In this way , a cordial relationship grown up in between the complainant’s family and the accused No. 1. Thereafter, one month prior to lodging of F.I.R her daughter told her that accused No. 1 proposed her and thereafter the accused never visited the complainant’s house. On 05.08.2025 at 7:30 P.M complainant and her husband were not in the house and her minor daughter was alone in the house and taking that opportunity the accused NO. 1 at 8 P.M came to her house and forcefully committed rape upon her by pressing her mouth and therefore promised to marry her. On the next day morning, the complainant saw that her daughter was crying and on asking she disclosed about the incident to her . Accused No. 1 when forcefully committed rape upon her minor daughter took photographs of her daughter in naked condition and he is threatening the complainant and her husband for publishing

those photographs if any case is filed against him. When the complainant and her husband along with Gram Panchayet and Pradhan came to the house of the accused No. 1 and informed about the incident to his parents but they abused them with filthy languages.

2. On the basis of complaint the Officer-in-charge of Dinhata Women police station registered Dinhata Women P.S. case no. 99/2025 dated 18.08.2025 u/s 4/17 of POCSO Act against the accused. The investigation into the offence was started and the investigating officer after completion of investigation submitted charge sheet against the accused Amit Barman u/s 4 of POCSO Act and against accused Adhir Barman, Khoka @ Bhanu Barman, Tapan Barman and Sushma Barman u/s 4/17 of POCSO Act vide C.S. no. 124/2025 dated 16.10.2025.

3. The prosecution, after perusing of all materials on record, proposed to frame charge u/s 4 of POCSO Act against the accused Amit Barman. The contents of the charges were read over and explained to the accused in bengali language and on being asked he pleaded not guilty by saying “Ami Nirodsh”. Thus the trial. It appears from the record that this court was pleased to discharge accused Adhir Barman, Khoka @ Bhanu Barman, Tapan Barman and Sushma Barman from this case u/s 250 of BNSS as there is no any prima-facie materials against them.

4. Then the prosecution was asked to adduce their evidence. The prosecution, in order to substantiate its case, marshalled in the witness box 04 witnesses. Several documents were exhibited at the course of the instant trial, which shall be adverted to at the relevant stages.

5. When the prosecution concluded its evidence, the accused person was examined u/s 351 of B.N.S.S wherein the incriminating evidence were put to him to which he replied that all allegations against him are incorrect and the statements given by the PWs are false and fabricated. He claimed false implication by the PWs. In short, the defence contention was a bare denial of the prosecution case in limini, that he is innocent, had no complicity with the crime, was falsely implicated. Despite opportunity given, he led no evidence in defence. Consequently, matter was then posted for final argument. Oral submissions were placed on behalf of both the prosecution and the defence.

POINTS FOR DETERMINATION

- i) Whether the accused person has committed offence punishable under section 4 of POCSO Act as alleged ?
- ii) Has the prosecution been able to prove the charge under Section 4 of

POCSO Act against the accused ?

DECISION WITH REASONS

6. In order to bring home the charges against the accused person, the prosecution has examined as many as 04 witnesses. In spite of giving opportunities and offer to adduce defence evidence the accused person did not adduce any evidence at his instance.

7. All the points are conjointly dealt with and discussed for the sake of convenience considering the nature, inter-relation and to maintain brevity and to avoid necessary repetitions.

8. Considering the submission of both sides, I have gone through the entire evidence on record. On the basis of the entire evidence on record, it is abundantly clear that the P.Ws have adduced evidence in a clear manner and as such I feel that it may be just, proper and convenient to scan, scrutinize and assess the effect of the entire evidence as a whole.

9. Now, before scrutinizing the evidence on record, it would be useful to notice the statutory provisions.

10. Scope and ambit of Section 4 of POCSO Act.

Section 4 of POCSO Act prescribes the punishment for committing penetrative sexual assault as defined u/s 3 of the said Act against a minor. The ambit extends to severe, non-consensual sexual act, while the scope of punishment scales based on the victim's age.

11. Appreciation of evidence adduced by the prosecution side :

i. The mother of the victim i.e. the complainant of this case as P.W-1, has deposed that at the time of incident, her daughter who was aged 17 years 8 months, had love affairs with Amit since one year prior to lodging of FIR and for that reason Amit used to visit her house and Amit promised to marry her daughter but subsequently he refused to marry her, so, he lodged complaint against him. She has proved the complaint which was written as per her version which has been marked as Exhibit-P-1 and she has also proved her signature which has been marked as Exhibit-P-1/1. She has also deposed that her daughter was produced before the doctor at Dinhata SD hospital where she was medically examined and she accompanied her. She has proved her signature on the medical examination report of her daughter which has been marked as Exhibit-P-2/1. She has also deposed that her daughter gave statement before the Ld. Magistrate and police seized the birth certificate and Aadhaar Card of her daughter from her under the

seizure-list on which she put her signature. She has proved her carbon impression signature on the carbon copy of seizure-list dated 09-10-2025 which has been marked as Exhibit-P-3/1. During cross-examination she has disclosed surprisingly that the contents of the written complaint was not read over and explained to her and without knowing the contents of the written complain she put her signature on it. Therefore, considering the evidence of the complainant as a whole, I find that the complainant herself did not support the prosecution case.

ii . P.W-2 i.e. the victim girl has deposed that she was in relationship with accused Amit Barman and her mother asked Amit to visit their house to talk with her regarding their marriage but he did not come and for that reason her mother lodged complaint against him and others. She has further deposed that after lodging of the complaint, she was taken to hospital for her medical examination and doctor examined her in presence of her mother and thereafter, she was also brought to the court by the police and she gave her statement before the Ld. Magistrate who then recorded her statement as per her version and after recording Ld. Magistrate read over the contents to her and then she put her signature on a separate paper. She has proved the said statement recorded by the Magistrate which has been marked as Exhibit-P-4 and she has also proved her signature on a separate paper which has been marked as Exhibit-P-4/1. Now during cross-examination she has disclosed surprisingly that she gave her statement before the Magistrate on being tutored by police and her para people. Therefore, the victim also did not support the prosecution case.

iii. P.W-3 Dr. Purna Chandra Hansda has deposed that on 18-08-2025 he was posted at Dinhata SD hospital as a medical officer (Gynecologist) and on that day he examined the victim girl child, in connection with the present case. He has also deposed that the victim girl stated before him that forceful sexual intercourse was done by Amit Barman with her on 05-08-2025 at about 8:30 P.M at the house of victim and the victim girl also stated before him that there was penetration of penis into vagina and ejaculation of semen inside the vagina of the victim and victim after the incident, washed herself and washed her garments wore at the time of incident. He has also deposed that on examination, he found that her hymen was ruptured, clinically no foreign body or injury mark on her private part or body part was detected, her vaginal swab was taken. Accordingly, he prepared the report and he has proved the said medical examination report prepared and signed by him with office seal which has been marked as Exhibit-P-2. During cross-examination

he has disclosed that hymen may be ruptured due to any other reason like cycling, swimming, running, exercise etc.

iv. P.W-4 LSI Suniti Subba who is the Investigating Officer has stated that on 18-08-2025 she was posted at Dinhata Women P.S as Officer-in-charge and on that date herself registered the present case on the basis of the complaint made by the complainant and filled up the formal FIR and she has proved the receiving endorsement on the written complaint which has been marked as exhibit-P-1/2 and he has also proved the formal FIR which has been marked as exhibit-P-5. She has further stated that during investigation, she examined the complainant and victim and recorded their statements u/s 180 of BNSS and thereafter she sent the victim along with her mother for her medical examination to Dinhata SD hospital and accordingly she was examined there and she collected the report of the same. She has also stated that she seized the vaginal swab of the victim under the seizure-list and she has proved the said seizure-list prepared and signed by her which has been marked as exhibit-P-6 and then she visited P.O and prepared rough sketch map with index of the P.O on separate sheet and she has proved the said rough sketch map with index of the P.O which have been marked as exhibit-P-7 series. She has also stated that she produced the victim before the court with a prayer for recording her statement u/s 183 of BNSS and the same was done and she collected the copy of the same and thereafter she arrested the accused Amit Barman and produced him before the Ld. Court and also done the potency test of the accused by submitting a prayer and collected the same. She has also proved the potency test report of the accused which has been marked as exhibit-P-8. She has further stated that she seized the birth certificate and Aadhaar Card of the victim under the seizure-list and she has proved the carbon copy of seizure-list dated 09-10-2025 which has been marked as exhibit-P-3 and from the C/D she find that the date of birth of the victim is 07-12-2007 and then on completion of investigation, she submitted charge-sheet against the accused persons, namely Amit Barman, Adhir Barman, Khoka @ Bhanu Barman, Tapan Barman and Sushama Barman u/s 4/17 of POCSO Act. During cross-examination she has disclosed surprisingly that houses of Anil Barman and Sunil Barman situate near the P.O as mentioned in the rough sketch map and index but she has not examined them.

v. No other evidence has been adduced by the prosecution side.

vi. Therefore, in conclusion, on going through the entire material on record, it is abundantly clear that there is practically no reliable evidence on

record in support of the prosecution case.

vii. Therefore, the prosecution case creates doubt about the charges under Section 4 of Protection of Children from Sexual Offences Act against the accused person.

viii. Thus, in the background of the above findings and observations I have no doubt in my mind to conclude that the evidence adduced by the prosecution side in support of the charge labeled against the accused person do not at all inspire any confidence in the mind of this Court for holding the same to have any merit and as such the accused person is surely entitled to an order of acquittal at least on the ground of benefit of doubt.

ix. In the end prosecution case fails.

Hence, it is

ORDERED

that the prosecution has failed to prove the acquisition under section 4 of Protection of Children from Sexual Offences Act against the accused Amit Barman.

So, the accused Amit Barman is found not guilty under section 4 of Protection of Children from Sexual Offences Act. He is acquitted from the case under Section 258(1) of B.N.S.S.

The victim and the de-facto complainant have their right to prefer the appeal before higher forum if they are not satisfied with the judgment and they may seek for help and assistance from the secretary DLSA, Cooch Behar.

As the victim did not support the prosecution case, so considering all such evidence on record, I do not find any justification to award compensation in favour of the V.G.

Let a copy of this judgment be sent to the secretary DLSA, Cooch Behar and Ld. District Magistrate, Cooch Behar for information.

Dictated & corrected by me,

Sd/-

Judge,
Spl. Court (POCSO)-cum-
Additional Dist. & Sess. Judge,
Dinhata.

Sd/-

Judge,
Spl. Court (POCSO)-cum-
Additional Dist. & Sess. Judge,
Dinhata