



FORM-A

**In the court of Additional District & Sessions Judge,
1st Court, Sealdah, South 24 Parganas**

**Present : Smt. Sharanya Sen Prasad,
Additional Sessions Judge, 1st Court cum
Spl. Judge (under POCSO Act),
Sealdah, South 24 Parganas**

Judgment delivered on the 6th day of May, 2026

Special (POCSO) Trial No.:06 (04) of 2025
Special (POCSO) Case No.: 19/2025

(Chitpur PS case No. 9/25 dated 09.01.2025).

State of West Bengal

VS

1. Niloy Samaddar

(Details of FIR/Crime and Police Station)

Complainant	STATE OF WEST BENGAL OR DEFACTO COMPLAINANT 'X'
REPRESENTED BY Ld. P.P.	Asim Kumar
ACCUSED	1. Niloy Samaddar son of Netai Samaddar of 1/H/27, Sarbakhan Road, PS Chitpur, Kolkata- 37.
REPRESENTED BY	Human Kabir

FORM B

Date of Offence	31.12.2024
Date of FIR	09.01.2025
Date of Charge sheet	24.03.2025
Date of Framing of Charges	23.04.2025
Date of commencement of Evidence	16.09.2025
Date on which Judgment is reserved	--
Date of the Judgment	06.05.2026
Date of Sentencing Order, if any	--

Accused details :

Rank of the Accused	Name of the Accused	Date of arrest	Date of release on bail	Offences charged with	Whether acquitted or convicted	Sentenced imposed
1	Niloy Samaddar	11.03.2025	08.04.2025	U/s.137(2) BNS and section 4 of POCSO Act	Acquitted	

FORM-C**LIST OF PROSECUTION/DEFENCE/COURT WITNESSES****A. Prosecution :**

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL, PANCH WITNESS, OTHER WITNESS.
PW.1	Victim girl	Witness
PW.2	Mother of the victim	Witness
PW.3	Father of the victim	Witness
PW-4	Asim Kumar Samanta	IO

B. Defence Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL, PANCH WITNESS, OTHER WITNESS.
DW.1		
DW.2		

C. Court Witnesses, if any :

RANK	NAME	NATURE OF EVIDENCE (EYE WITNESSES, POLICE WITNESS, EXPERT WITNESS, MEDICAL, PANCH WITNESS, OTHER WITNESS.
CW.1		
CW.2		

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

Sr. No.	Exhibit Number	Description
1	Exhibit-P-1 (1)	Statement of VG U/s 183 BNSS
2	Exhibit-P-2 (3)	Complaint.
3	Exhibit-P-3 (3)	Signature of PW3 on seizure list
4	Exhibit-P-4 (4)	Formal FIR
5	Exhibit-P-5 (4)	Rescue Memo
6	Exhibit-P-6 (4)	Medico legal examination report.

B. Defence :

Sr. No.	Exhibit Number	Description
1	--	
2	--	
3		

C. Court Exhibits :

Sr. No.	Exhibit Number	Description
1	--	
2	--	
3	--	

D. Material Objects :

Sr. No.	Exhibit Number	Description
1	--	

J U D G M E N T

1. The fact of the prosecution case, in brief, is that defacto complainant, the father of the victim girl lodged a complaint before OC, Chitpur PS on 09.01.2025 alleging that on that on 14.05.2023 by misrepresentation and inducement the accused kidnapped the victim girl, minor daughter of defacto complainant. Thereafter, police recovered her as per the complaint lodged by the defacto complainant. Thereafter, since 31.12.2024 again victim was missing. They searched for her but she was untraceable. On 02.01.2025 the accused called him over his mobile phone at about 06.20 pm and informed that the victim is with him.

2. On the basis of the said written complaint O/C of Chitpur PS initiated Chitpur PS case No. 09/25 dated 09.01.2025 and SI Asish Kumar Mahanta was endorsed to investigate the case and after completion of investigation on 24.03.2025 IO filed charge-sheet in this case being CS No. 39/25 against the accused person Niloy Samaddar for offence U/s 137(2)/64 BNS and section 4 of POCSO Act and section 9 of Protection of Child Marriage Act and this court on 26.03.2025 took the cognizance of the offence against the accused person.

3. On 23.04.2025 charge framed against the accused Niloy Samaddar for offence U/s 137(2) BNS and section 4 of POCSO Act and the substances of acquisitions were read over and explained to the accused person and to which he pleaded not guilty of the offence and claimed to be tried and accordingly trial initiated.

4. During trial, the prosecution examined total four C/S witnesses who were cross-examined by the defence on behalf of the accused person. Thereafter, the accused person was examined under section 351 of BNSS and he pleaded innocence.

5. The Defence case, as revealed from the trend of cross examination of the witnesses and examination under section 351 of BNSS is of innocence and false implication.

Heard arguments of both sides.

6. **POINTS FOR DETERMINATION.**

1. Whether the accused is found guilty for committing the offence punishable under sections 137(2) BNS and section 4 of

POCSO Act ?

2. Whether the prosecution has been able to bring home the charges against the accused person beyond any shadow of doubt ?

7. **DECISION WITH REASONS.**

Both the points are taken up together for the sake of brevity and to avoid repetition. It is the prosecution case that accused kidnapped the minor victim and committed penetrative sexual assault.

Learned Special P.P.-in-charge during argument stated that in this case prosecution has examined four C/S witnesses and they corroborated the prosecution case and Ld. Special PP-in-charge prayed for conviction of the accused person.

Learned Defence Advocate during argument stated that in this case prosecution witnesses did not corroborate the prosecution case. Learned Defence Advocate prayed for acquittal of the accused person.

8. Let us see the legal provisions of the offences charged with.

Section 3 of Protection of Children from Sexual Offences Act, 2012 : Penetrative sexual assault

(1) In this Act, unless the context otherwise requires, -

A person is said to commit "penetrative sexual assault" if-

(a) he penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a child or makes the child to do so with him or any other person; or

(b) he inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of the child or makes the child to do so with him or any other person; or

(c) he manipulates any part of the body of the child so as to cause penetration into the vagina, urethra, anus or any part of body of the child or makes the child to do so with him or any other person; or

(d) he applies his mouth to the penis, vagina, anus, urethra of the child or makes the child to do so to such person or any other person.

Section 4 of Protection of Children from Sexual Offence Act stated about the punishment for penetrative sexual assault.

9. It is the prosecution case that at the time of incident victim was

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minor. Defacto complainant during evidence corroborated the fact that victim was minor at the time of incident. Defence did not challenge the fact that victim was not minor at the time of incident. In this case from the evidence it is established that victim was minor at the time of incident.

10. PW-1 victim during evidence did not state that she was kidnapped by the accused or accused committed penetrative sexual assault to the victim girl.

11. There is nothing in the medical report to establish the fact that accused committed penetrative sexual assault to the victim girl.

12. Parents of the victim PW-2 and PW-3 during evidence did not state that the accused committed penetrative sexual assault to their daughter. Moreover, during evidence, PW-2 and PW-3 did not state that accused kidnapped their daughter.

13. Hence, considering all the aspects this court holds the view that prosecution of this case miserably failed to establish the fact beyond all reasonable doubt that accused person namely, Niloy Samaddar is guilty of offence under section 4 of POCSO Act and section 137(2) BNS and he deserves to be acquitted from this case.

14. Hence, it is -

Ordered

that the accused person namely, Niloy Samaddar is found not guilty for committing the offence punishable under section 4 of POCSO Act and section 137(2) BNS and he is acquitted from the said charges U/S 258 of B.N.S.S.

15. The bail bonds furnished by the accused person namely, Niloy Samaddar in connection with this case is treated as bail bonds furnished in compliance with Section 481 of B.N.S.S and will remain in force for a period of six months from this date and he is further directed to appear before the Hon'ble Appellate Court if he received any order for appearance against this judgment and order from the Hon'ble Appellate Court.

16. The seized alamats, if any, be disposed of in accordance with law, after expiry of the period of appeal.

17. The Court Inspector, Sealdah is directed to comply with the provisions of Reg.445 of the Police Regulations of Bengal.

18. The defacto complainant has the right to prefer an appeal under proviso to section 413 of BNSS and if necessary, to avail free legal assistance through the Legal Services Authority concerned to prefer and prosecutes such appeal.

19. Let a copy of this judgment be sent to the District Magistrate, South 24 Parganas and the Secretary, District Legal Services Authority, South 24 Parganas for due intimation to the victim.

Dictated & corrected by me.

Judge.

Spl. Judge (under POCSO Act)-cum-ADJ,
1st Court, Sealdah, South 24 Parganas.
(J.O. Code WB00690)
06.05.2026