



2026:CGHC:33821-DB



CGHC010001952026



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 203 of 2026

Vinod Patel S/o Late Vishvanath Patel Aged About 38 Years R/o Village- Faudipur
Panchayata - Kandipur Girddh Badgaon District- Sant Ravidas Nagar Bhadohi (U.P.)
... **Appellant(s)**

versus

State Of Chhattisgarh Through- Station House Officer, Police Station- Kotwali Korba
District- Korba (C.G.)
... **Respondent(s)**

(Cause-title taken from Case Information System)

For Appellant	: Shri Rajeev Kumar Dubey and Ms Maya Chaturvijani, Advocates
For Respondents/State	: Shri Jitendra Shrivastava, GA

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Justice Ravindra Kumar Agrawal
Judgment on Board

Per Ramesh Sinha, Chief Justice
04.08.2026

Heard Shri Rajeev Kumar Dubey, and Ms Maya Chaturvijani,
learned counsel for the appellant. Also heard Shri Jitendra Shrivastava,
learned GA for the State.

1. This Court vide order dated 21.01.2026, directed the learned State
counsel to inform mother of the victim PW4 regarding pendency of the
appeal, revealing that she can appear on the date fixed and to object the
prayer made in the bail application through the counsel. However,



despite service of notice upon her, she has not made her appearance either in person or through any counsel. Therefore, we proceed to hear the matter.

2. Present appeal has been listed today for consideration on IA-1 of 2025 application for suspension of sentence and grant of bail. However, considering the fact that appellant is in jail since 21.03.2024, with the consent of the parties, matter is heard finally. Consequently, IA-1 of 2025 stands disposed of.

3. Present appeal is filed under section 415 (2) of the BNS 2023 filed by the appellant against the impugned judgment of conviction and sentence dated 11.12.2025 passed by the learned Additional Session Judge FTSC (POCSO), Korba, District-Korba in Special Case (POCSO)-19 of 2024 whereby appellant has been convicted and sentenced in the following manner with default stipulation:

Conviction	Sentence
U/S 366 of the IPC	RI for 07 years and to pay fine of Rs.2,000/-
U/S 376 of the IPC	RI for 12 years and to pay fine of Rs.5,000/-

4. Prosecution case in brief is that on 13.03.2024, PW4, mother of victim-2 lodged report at Police Station-Kotwali, Korba that at about 4.30 pm, when she returned from a marriage function, she did not find her minor daughter in the house and despite her search, her whereabouts could not be found. Her mobile phone was also switched off. On the



complaint made by PW4, FIR Ex.P15 was registered under Section 363 of the IPC against unknown person. During the investigation, victim-2 came back to her house on 20.03.2024 and she disclosed that she was being allured by the accused Rajni Chouhan, who took her to Banaras. Recovery panchnamas Ex.P1 and Ex.P7 were prepared by the Police and statements of victim-1 and victim-2 have been recorded, which are Ex.P2 and Ex.P3. Both the victims were sent for their medical examination to the District Hospital, Korba, where Dr KB Sonkar, PW6 medically examined them and gave her report Ex.P10 and Ex.P11A. Multiple scratch marks were found on the left wrist of victim-1. However, no external injuries were found on the body of victim-2. Spot map Ex.P4 was prepared by the Police and Ex.P5 was prepared by the Patwari. With respect to date of birth and age of both the victims school record has been seized by the police which are Ex.P11C, P12C, P13C and P14C. Accused persons have been arrested on 21.3.2024 and the appellant herein was sent for his medical examination to the Government Medical College Hospital, Korba where PW5 Doctor medically examined him and gave her report Ex.P9. While medically examining the appellant the doctor has not noticed any external injuries found him capable to perform sexual intercourse. Memorandum statement of the accused Rajni Chouhan Ex.P16 and the present appellant Ex.P17 were recorded on the basis of which one mobile phone has been seized from the accused Vinod Patel vide seizure memo Ex.P18. The mobile seized from the appellant-Vinod Patel was sent for its Cyber report to the Anti-crime



and Cyber Unit, Bilaspur, from where cyber report Ex.P32 was received along with the certificate under Section 65B of the Evidence Act Ex.P33, in which the photographs of the marriage of the victims have been extracted.

5. Statement of the witnesses under Section 161 CRPC have been record and after completion of usual investigation chargesheet was filed against the two arrested accused persons before the learned trial court for the offence under Sections 363, 366, 366A, 376 and 34 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

6. The learned trial court initially framed charge against the accused person-Rajni Chouhan for the offence under Section 366A, 376(1) read with 109 of IPC and Section 4(1) read with Section 17 of the Pocso Act, whereas, the charge against the accused Vinod Patel, present appellant has been framed under Section 366A and 376(1) of the IPC and Section 4(1) of the POCSO Act. Subsequently the charge against present appellant has been amended vide order dated 04.07.2025 and the contents of the charges have been amended. However, offences framed against the present appellant would remain the same. The accused persons denied the charge and claimed trial.

7. In order to prove the charge against the accused persons , prosecution has examined as many as 11 witnesses. Statements of the accused persons under Section 313 CRPC were recorded. During the



proceeding of the trial, accused-Rajni Chouhan absconded and permanent warrant of arrest has been issued against him vide order dated 13.12.2024 by the learned trial court and trial against the present appellant- Vinod Patel was proceeded.

8. Statement of the appellant under Section 313 has also been recorded in which he denied the circumstances appearing against him, pleaded innocence and submitted that he is innocent and has been falsely implicated in the offence.

9. After appreciation of oral as well as documentary evidence lead by the prosecution, the learned trial court has convicted the appellant and sentenced him as has been mentioned in the earlier part of this judgment. Hence this appeal.

10. Learned counsel for the appellant would submit that prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of the prosecutions witnesses which cannot be made basis to convict the appellant in the alleged offence. The appellant has already married and resident of Bhadohi, UP, where co-accused Rajni Chouhan took the victims for their marriage purposes and since he acquainted with Rajni Chouhan, he gave shelter to them to stay there. However, when he came to know about the incident, he himself came along with the victims to left them at their respective parents' house. But the Police made the present appellant accused, only on suspicion. He would further submit that the learned trial



court has found the victims major as there is no sufficient evidence produced by the prosecution with respect to their age and since the victims have been found major they visited UP along with co-accused Rajni Chouhan on their own will. No offence of either kidnapping or rape could be made out against the appellant. There is no injury found on the body of the victims and there is no sign of any protection. Even the electronic evidence produced by the prosecution has not been proved in accordance with law, which is very weak type of evidence, and the same does not directly connect the appellant with the crime in question. He would also submit that the pen drive, by which the electronic evidence was submitted by the prosecution bears the marriage ceremony, in which number of couples were seen, who are going to be married in the said function. Therefore, it cannot be considered against the appellant. The evidence produced by the prosecution is not sufficient to hold the appellant guilty of alleged offence of kidnap and rape and therefore, he is entitled for acquittal.

11. On the other hand learned counsel appearing for the state opposes the submissions made by the learned counsel for the appellant and submit that prosecution has proved its case beyond reasonable doubt. But for minor omissions and contradictions, their evidence is reliable and clinching. Though the learned trial court has held that prosecution could not establish age of the victims that they were minor on the date of incident but so far as the allegation of rape is concerned, even if the prosecution could not establish that the victims are minors, the allegation



of rape is required to be considered on its own merits. The learned trial court after meticulous examination of the victims, as well as the medical evidence available on record, held that appellant is guilty for the offence as alleged. The evidence of the victims-1 and 2 is cogent and clinching, which does not require any corroboration. Yet their evidence has been corroborated by the evidence of their parents and the medical evidence of victim-1, who received scratch mark on her wrist. Thus, the well-reasoned judgment passed by the trial court does not require to be interfered and the appeal is liable to be dismissed.

12. We have heard learned counsel for the parties and perused the record of the trial court.

13. Initially, prosecution has lodged the report and filed the charge sheet under Section 4 of the POCSO Act, showing the victims to be minors which comes under definition of “Child” as defined in 2(d) of the said Act. However, learned trial court after considering the material produced in the charge sheet, held in para 22 of its judgment that the prosecution has failed to prove that the victims were minor on the date of incident and they come under definition of “child” under the PCOSO Act and gave negative finding to that respect.

14. So far as the offence of kidnapping and rape are concerned there is no appeal filed by either the state or by the victims against the said finding of their age. Therefore, we do not find any reason to reconsider the said finding recorded by the learned trial court.



15. Further, with regard to the offence of kidnapping and rape are concerned, we again examine evidence of the victims.

16. PW1 is the victim-1, who stated in her evidence that she knew the present appellant, as well as the accused-Rajni Chouhan. She knows Rajni Chouhan because of the reason that she was going with him for work. The accused Rajni Chouhan insisted her to go to Banaras for one or two days. On her instance, she accompanied her to Banaras and had gone there by bus. She and the victim-2 initially went to Banaras from Korba by bus. The appellant came there to receive them. They stayed in the house of appellant for two days and thereafter, accused Rajni Chouhan insisted her for marriage with one Raju. They forcefully perform marriage with the accused Raju and sent her to Mathura. She repeatedly made call to the accused Rajni Chouhan but she had not received any call. She requested the present appellant to leave her back and then he dropped her from Mathura to Banaras. Her mother has also requested accused-Rajni Chouhan to bring their daughter back or else, they will take Police action. Thereafter, accused Rajni Chouhan took her and the victim-2 back from Banaras to Korba. Appellant came to Korba to leave them back. When the appellant took her back from Mathura to Banaras, committed rape upon her. When they reached Korba, they had gone to the house of Rajni Chouhan but she does not find him there, and they proceeded to the Police Station.

In cross-examination, this witness admitted that she had gone to Banaras without informing her parents. Though she denied in her Police



statement that she had not disclose that she suffered any wrong with her, but she stated that if she does not mention in her Police statement Ex.D1, she could not know the reason. She further stated that her marriage was performed in the house of present appellant. She further admitted that she has not raised any alarm in her rescue. In her further cross-examination, she stated that in the video of pen-drive, the scene of marriage function was there. She identified that she had married with Raju and the person, who got the video recording has been identified as present appellant, through his voice. She also identified the marriage function of her another friend, who is also resident of the same vicinity. She further stated that she knew the wife of present appellant and Rajni Chouhan, who is her relative. She admitted that in the video in which her marriage function was recorded, the presence of present appellant is not there. She further admitted that she had gone outside of Korba on the instance of Rajni Chouhan. She has not made any complaint anywhere regarding preparation of video by present appellant. She further admitted that at the time of her recording Police statement, she disclosed that she has not suffered any sexual assault. From the evidence of this witness, she gave shaky evidence about kidnapping and rape upon her by the appellant.

17. Admittedly, she has not been taken by the appellant from Korba to Banaras, or even from Banaras to Mathura. As per her own allegation, it is Rajni Chouhan, who took her from Korba to Banaras, where she performed her marriage with one Raju, who took her to Mathura. Rather



it is the present appellant, who took her back to Korba. Though in her earlier part of her evidence, she stated that when she was brought back from Mathura, appellant committed rape upon her, however, in the later part of her evidence, she stated that presence of the appellant was not there in the video and that in her Police statement she disclosed that she has not suffered any incident of kidnap or sexual assault. All these things come to say that her evidence is not consistent and suffers from various discrepancies.

18. PW2 is the victim-2. She stated in her evidence that she knew the present appellant from the date when she had gone to Banaras. Victim-1 is her friend. Six months ago, accused-Rajni Chouhan made telephonic call to victim-1 from Banaras that he required two waiters there, and on her instance, both of them proceeded towards Banaras. When they reached there, they were compelled to marry but they refused. Victim-1 was subjected to forceful marriage and was sent to Mathura. She stayed in the house of present appellant, and he prepared her obscene video and threatened her not to disclose to anyone, otherwise, he would get the video viral. She called her friend to Banaras and after about 4-5 days, she came back to Korba. Thereafter, present appellant accompanied them to Korba. When they reached to Korba, she disclosed the incident to her parents and then Police proceeding was started.

In cross-examination, she admitted that victim-1 asked her to go to Banaras. She admitted that she had never talked to the accused- Rajni



Chouhan. She also admitted that on the pretext of stitching clothes, they had gone to Transport Nagar, Korba, from where, they proceeded to Banaras by bus. When they reached to Banaras, both the accused persons were present but she admitted that none of them has asked, or forced to marry. She admitted that after 4-5 days, present appellant asked them to go back to their parents' house and then, he also accompanied them and they came back to Korba by bus. She denied that she disclosed about the incident in her Police Statement and if it is not there, she could not tell the reason. She too has stated in her further cross-examination about the video, which was kept in the pen drive and displayed during her evidence and she identify the voice of present appellant. She further admitted that on the instance of accused-Rajni Chouhan, she has gone outside of Korba. She has not made any complaint with respect to marriage of her friend victim-1. From the evidence of this witness also, there are material discrepancies and there is absolutely no allegation against the present appellant that he committed any sexual assault with her, or with her friend, as disclosed that she was subjected to sexual intercourse by the present appellant. Rather, present appellant accompanied them and left them back to Korba.

19. PW3 is mother of victim-1. She stated in her evidence that accused-Rajni Chouhan is her neighbour. At the time of alleged incident, she had gone to pilgrimage. Mother of victim-2 informed her through mobile phone that her daughter is missing and her whereabouts could not be



traced out. When the victims could not be found, family members of victim-2 lodged report to the Police. After about nine days, both the victims came back to Korba and when she asked the victim-1, she disclosed that accused-Rajni Chouhan took her to Banaras for work of waiter.

In cross-examination, she admitted that after pilgrimage, when she came back, she enquired about her daughter but she could not gather any information. She admitted that she has not disclosed the name of accused Rajni Chouhan as suspected. She further admitted that after recovery of the victims, Police has not enquired anything from her. From her evidence, there is absolutely no evidence against the appellant that he took the victims with him, or the victims disclosed about any incident.

20. PW4, mother of victim-2 stated in her evidence that on the date of incident, her daughter left the house on the pretext of going to stitching the clothes but could not return. When she did not return, she lodged missing report. When the victims came back, she enquired from her and then victim-2 informed her that Rajni Chouhan took her to Banaras for the work of waiter. She also disclosed that at Banaras, victim-1 was forcefully got married. Victim-2 has also informed that before coming to Korba, present appellant prepared obscene video and threatened her not to disclose to anyone.

In cross-examination, she admitted that she herself has not lodged any report to any Police Station. The document which she signed has



not been read over by her and on the instance of Police, she made her signature. There is no allegation against the present appellant on the evidence of this witness that the appellant committed rape upon any of the victim and it is only alleged that the appellant prepared the obscene video of victim-2.

21. PW-5 Dr Deeksha Markam is the doctor, who has medically examined the appellant and has not noticed any external injuries on his body and found him capable to perform sexual intercourse and also proved her report Ex.P9.

22. PW6, Dr KB Sonkar, who medically examined both the victims on 21.03.2024. She stated in her evidence that she noticed old scratch mark on the left wrist of victim-1 but no other injuries have been found on her body, even, no sign of recent sexual intercourse was noticed. Two vaginal slides were prepared and handed over to the Police for their FSL examination. She also medically examined victim-2 but she refused for getting her medical examination. Victim-2 disclosed that she has not suffered any incident and therefore, she is not willing to get her medical examination by the doctor. Doctor also proved her reports Ex.P10 and Ex.P11.

23. Other witnesses are the procedural witnesses, who participated in the investigation proceeding and deposed about the investigation conducted by them.



24. PW10-Tankeshwar Yadav is the Investigating Officer in the case. He stated in his evidence about the procedure which he conducted during the investigation and proved the documents thereof. However, in cross-examination, he admitted that mother of victim-2 has not lodged any report to anywhere. He admitted that recovery Panchnama was prepared at Kotwali, Korba on 20.03.2024 and at that time, mother of each victim produced them before the Police. He further admitted that victim-1 has admitted in her Police statement Ex.D1 that she has not suffered any sexual assault. He also admitted that victim-2 also made statement in her Police statement Ex.D3 that she too has not suffered any sexual assault. He voluntarily stated that both the victims have disclosed about sexual assault in their 164 CrPC statement. He further admitted that he has not annexed any mobile call detail of the appellant and there is no photograph extracted from the mobile phone of the appellant. During the investigation he has not visited Banaras and has not enquired whether the victims alleged to have been kept, married, and were taken to Mathura.

In further cross-examination, he stated that the mobile phone seized from the appellant was sent for analysis to the Anti Crime and Cyber Unit, Bilaspur and obtained report Ex.P32. He could not tell as to various whatsapp, and chats were exchanged to various persons. He has not enquired about the CAF of the said mobile sim. In the said mobile, photograph of the accused as well as photographs related to marriage were there in the mobile phone.



25. PW11-Prabhakar Tiwari is the Sub-Inspector posted at the Cyber Cell, Bilaspur. He proved the report Ex.P32 and certificate under Section 65B of the Evidence Act, Ex.P33 and pen-drive Article A1, who stated in his evidence that from the Article-A, photographs and video recording to marriage function was recovered. In cross-examination, he stated that in his report the ICC ID number of simcard has been mentioned. He denied the discrepancies of the mobile numbers in the report as well as memo sent to him. He further stated that he could not say as to whether the video and photo mentioned in his report has been prepared by the appellant, or not, he voluntarily stated that he only recovered the video and mobile phone and could not tell as to who has prepared it.

26. From all these evidences, the substantive allegation of kidnapping and rape are not found to be established by the prosecution. In the fact that when the victims are found major, they voluntarily travel up to Banaras from Korba without raising any alarm, or without making any complaint. Admittedly, when they proceeded from Korba, present appellant was not there with them, and he met them in Banaras. They stayed there in his house. As per the evidence of PW2 (victim-2), both the accused persons met the victims at Banaras, which clearly disclose the fact that both the victims proceeded to Banaras alone, on their own, though they have stated that they have gone there on the instance of other accused-Rajni Chouhan, but till reaching Banaras, no role of the present appellant has been disclosed.



27. So far as the alleged elopement and kidnapping of the victim are concerned, in view of the evidence available on record, it is necessary to consider the judgment of the Hon'ble Supreme Court in **S. Varadarajan v. State of Madras**, AIR 1965 SC 942, wherein it has been held as under:"

"9. It must, however, be borne in mind that there is a distinction between "taking" and allowing a minor to accompany a person. The two expressions are not synonymous though we would like to guard ourselves from laying down that in no conceivable circumstance can the two be regarded as meaning the same thing for the purposes of of the Indian Penal Code. We would limit ourselves to a case like the present where the minor alleged to have been taken by the accused person left her father's protection knowing and having capacity to know the full import of what she was doing voluntarily joins the accused person. In such a case we do not think that the accused can be said to have taken her away from the keeping of her lawful guardian. Something more has to be shown in a case of this kind and that is some kind of inducement held out by the accused person or an active participation by him in the formation of the intention of the minor to leave the house of the guardian.

10. It would, however, be sufficient if the prosecution establishes that though immediately prior to the minor leaving the father's protection no active part was played by the accused, he had at some earlier stage solicited or persuaded the minor to do so. In our, opinion if evidence to establish one of those things is lacking it would not be legitimate to infer that the accused is guilty of taking the minor out of the keeping of the lawful guardian merely because after she has actually left her



guardian's house or a house where her guardian had kept her, joined the accused and the accused helped her in her design not to return to her guardian's house by taking her along with him from place to place. No doubt, the part played by the accused could be regarded as facilitating the fulfillment of the intention of the girl. That part, in our opinion, falls short of an inducement to the minor to slip out of the keeping of her lawful guardian and is, therefore, not tantamount to "taking".

28. From the conduct of the victim and in view of the aforesaid judgment of **S. Vardarajan** (supra), it cannot be said that the appellant has kidnapped the victim and procured the minor girl, as the victim is not found to be minor and no offence of either kidnapping or procuring a minor girl is made out against the appellant.

29. Recently, the Hon'ble Supreme Court in the matter of **Tilku @ Tilak Singh v. State of Uttarakhand**, Criminal Appeal No. 183 of 2014, decided on 06.02.2025, has considered the aforesaid judgment of **S. Varadarajan** (supra) and hold that when the victim herself voluntarily gone along with the appellant, traveled to various places and also resided with him without raising any objection, no offence of kidnapping is made out.

30. From the evidence of both the victims, it transpires that there are no consistency in their evidence about the allegation of kidnapping and rape upon victim-1. The Investigating Officer stated in his evidence that in their Police statement, both the victims have not made any allegation



that victim-1 was subjected to sexual intercourse by the appellant and it is only when Section 164 CrPC statement was recorded, they made allegation. The evidence of the mother of each victim is also doubtful as they did not disclose that the victims informed them about any incident of sexual exploitation.

31. In all these circumstances, the evidence of victims cannot be considered to be reliable and therefore, their evidence requires corroboration.

32. In the matter of **Dola @ Dolagobinda Pradhan Vs. State of Odisha**, (2018) 18 SCC 695, the Hon'ble Supreme Court has held in Para 9 :

"9. However, as is also evident from the observations above, such reliance may be placed only if the testimony of the victim appears to be worthy of credence. In this regard, it is also relevant to note the following observations of this Court in *Raju v. State of M.P.* 4, which read thus: (SCC p. 141, paras 10-11)

"10. The aforesaid judgments lay down the basic principle that ordinarily the evidence of a victim should not be suspected and should be believed, more so as her statement has to be evaluated on a par with that of an injured witness and if the evidence is reliable, no corroboration is necessary. Undoubtedly, the aforesaid observations must carry the greatest weight and we respectfully agree with them, but at the same time they cannot be universally and mechanically applied to the facts of every case of sexual assault which comes before the court.



11. It cannot be lost sight of that rape causes the greatest distress and humiliation to the victim but at the same time a false allegation of rape can cause equal distress, humiliation and damage to the accused as well. The accused must also be protected against the possibility of false implication, particularly where a large number of accused are involved. It must, further, be borne in mind that the broad principle is that an injured witness was present at the time when the incident happened and that ordinarily such a witness would not tell a lie as to the actual assailants, but there is no presumption or any basis for assuming that the statement of such a witness is always correct or without any embellishment or exaggeration.”

Having due regard in our mind to the above mentioned settled position in law, we have assessed the entire material on record meticulously.”

33. The version of the victim commands great respect and acceptability, but if there are some circumstances which cast some doubt in the mind of the court on the veracity of the victim's evidence, then it will not be safe to rely on the said version of the victim. There is contradictions and omissions in the statement of the victims and her parents. The law is well settled that in case of rape, conviction can be maintained even on the basis of sole testimony of the victim. However, there is an important caveat which is that the testimony of the victim must inspire confidence. Even though the testimony of the victim is not required to be corroborated, if her statement is not believable, then the accused cannot be convicted. The prosecution has to bring home the charges leveled against the appellant beyond any reasonable doubt, which the



prosecution has failed to do in the instant case and the appellant is entitled for benefit of doubt.

34. Having due regard in our mind to the above mentioned settled position in law, and from the overall consideration, we are of the considered opinion that prosecution has failed to prove the offence against the present appellant that he kidnapped the victims and committed rape upon victim-1. Therefore, the conviction and sentence of the appellant is liable to be set aside.

35. In the result, no offence against the appellant is made out and therefore, the appeal filed by the appellant is **allowed**. The impugned judgment of conviction and sentence for the alleged offences is hereby **set aside**. The appellant is **acquitted** from all the charges.

36. The appellant is reported to be in jail since 21.03.2024. He be released forthwith, if not required in any other case.

37. Keeping in view the provisions of Section 481 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the appellant is directed to furnish a personal bond for a sum of Rs. 25,000/- with one surety in the like amount before the Court concerned, which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.



38. Registry is directed to transmit the trial Court record along with a copy of this order to the Court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice