



2026:UHC:3490

Judgment reserved on:25.02.2026

Judgment delivered on:07.05.2026

**IN THE HIGH COURT OF UTTARAKHAND**

**AT NAINITAL**

**Criminal Jail Appeal No. 53 of 2025**

Sageer Ahmad

.....Appellant.

Vs.

State of Uttarakhand

.....Respondent

**Presence:**

Mrs. Manju Bahuguna, learned Amicus Curiae, for the Appellant.

Mr. Girish Ch. Joshi, learned AGA, for State.

**Hon'ble Ashish Naithani, J.**

1. The present criminal jail appeal has been preferred against the judgment and order dated 21.08.2025 passed by the learned Additional Sessions Judge/F.T.S.C., District Haridwar in Special Sessions Trial No. 114 of 2022, whereby the Appellant has been convicted under Section 6 read with Section 18 of the POCSO Act and sentenced to undergo ten years' rigorous imprisonment along with fine of Rs. 25,000/-, with default stipulation.
2. The case, in brief, is that a written report dated 20.06.2022 was lodged by the father of the minor victim at Police Station Kankhal, District Haridwar. In the said report, it was stated that both the informant and his wife used to go for work during the day, and during their absence, the Appellant, who used to supply milk at their residence, would visit the house. It was alleged that the Appellant, taking advantage of such



absence, committed sexual acts with the minor daughter of the informant, aged about 7 years.

3. It was further alleged that on 20.06.2022 at about 11:30 a.m., the Appellant again came to the house and committed an indecent act with the child, and upon disclosure, the matter came to the knowledge of the parents. It was also alleged that the Appellant had threatened the victim.
4. On the basis of the said report, Case Crime No. 190 of 2022 was registered under relevant provisions of the Indian Penal Code and the POCSO Act. After investigation, charge-sheet was submitted against the Appellant.
5. Upon appreciation of the evidence on record, the learned trial court recorded conviction and imposed sentence as noted above, which is under challenge in the present appeal.
6. Learned Amicus Curiae for the Appellant has assailed the impugned judgment primarily on the ground that the conviction is not borne out from the evidence on record and that the learned trial court has not properly appreciated material inconsistencies emerging from the testimony of key prosecution witnesses.
7. It is submitted that the informant, namely PW-1 (father of the victim), who is the author of the First Information Report, has not supported the State's case in material particulars. Learned counsel has drawn attention to his deposition wherein, during examination-in-chief, the witness did not fully reiterate the allegations as contained in the FIR and, in significant portions, resiled from the State's version.
8. It is further contended that PW-1 has stated in his testimony that the report was lodged on the basis of what was conveyed to him and upon the advice of others, thereby introducing doubt regarding the



spontaneity and veracity of the initial accusation. Learned counsel submits that such admission goes to the root of the state's case, particularly where the informant is not an eyewitness to the occurrence.

9. Learned Amicus Curiae has also referred to the testimony of PW-1 with regard to the alleged electronic evidence. It is submitted that there are material inconsistencies in his version regarding the preparation, custody, and handing over of the pen drive to the police. It is pointed out that at one stage the witness denies having provided any such recording, while at another stage he acknowledges the existence of video files in the pen drive allegedly showing the accused with the victim.
10. It is further submitted that the State has failed to establish an unbroken chain of custody of the electronic evidence. According to learned counsel, the absence of clear and consistent testimony regarding when and how the recording was made, transferred, and sealed creates doubt about its authenticity and admissibility.
11. Learned counsel has also questioned the compliance of the mandatory requirements of Section 65-B of the Evidence Act. It is submitted that although a certificate is stated to have been filed, the foundational facts necessary to prove the electronic record have not been satisfactorily established through cogent evidence.
12. With regard to the testimony of the victim (PW-2), it is submitted that the same requires careful scrutiny in light of surrounding circumstances. Learned counsel submits that the deposition of the victim, when read along with the testimony of other witnesses, does not present a consistent and corroborated narrative sufficient to sustain conviction under the stringent provisions of the POCSO Act.



13. It is also contended that the medical evidence does not support the allegation of penetrative sexual assault. Learned counsel has emphasized that no injuries, either internal or external, were noted in the medical examination, and there is no conclusive medical opinion establishing commission of such offence.
14. Learned Amicus Curiae has further submitted that the prosecution has not produced any independent witness, despite the incident allegedly occurring in a residential locality and the involvement of neighbouring persons being mentioned in the FIR.
15. It is also argued that the conduct of the prosecution witnesses, particularly in relation to the timing of disclosure, lodging of FIR, and production of electronic evidence, raises questions which have not been satisfactorily addressed.
16. On the cumulative assessment of the oral and documentary evidence, it is submitted that the State has not been able to establish the guilt of the Appellant beyond reasonable doubt and that the findings recorded by the trial court are liable to be re-examined.
17. Per contra, learned A.G.A. for the State has supported the impugned judgment and has submitted that the learned trial court has correctly appreciated the evidence on record.
18. It is submitted that the testimony of the victim (PW-2) is clear and categorical with regard to the role of the Appellant and the acts attributed to him. Learned State Counsel submits that the victim has consistently stated that the Appellant, who used to visit the house for supplying milk, committed indecent acts with her during the absence of her parents.



19. Learned A.G.A. has argued that the testimony of a child victim under the POCSO Act cannot be discarded merely on account of minor inconsistencies and that if the statement inspires confidence, it is sufficient to sustain conviction.
20. It is further submitted that the testimony of the victim finds support from surrounding circumstances, including the conduct of the accused and the fact that he had access to the premises where the victim was residing.
21. With regard to the testimony of PW-1, learned State Counsel submits that even if certain portions of the statement appear to be inconsistent, the same do not demolish the case in its entirety. It is contended that the witness has, in parts of his testimony, supported the State's version and has acknowledged the presence of the accused at the relevant time.
22. Learned A.G.A. has also relied upon the electronic evidence produced by the prosecution. It is submitted that the pen drive, when played before the court, contained video recordings showing the accused in proximity to the victim and engaging in acts which corroborate the case.
23. It is further submitted that the certificate under Section 65-B of the Evidence Act has been placed on record and the same satisfies the legal requirement for admissibility of electronic evidence.
24. With regard to the absence of medical evidence of injuries, learned State Counsel submits that such absence is not fatal to the case, particularly in cases involving minor victims, where the nature of the act and delay in examination may not always result in observable injuries.



25. Learned A.G.A. has also submitted that the trial court has considered the entire evidence, both oral and documentary, and has recorded findings based on a comprehensive appreciation of the material on record.
26. It is, therefore, contended that the conviction recorded by the trial court is justified and does not warrant interference in appeal.
27. Heard learned counsel for the Parties and perused the records.
28. The conviction of the Appellant is primarily founded upon the testimony of the victim (PW-2), the surrounding circumstances, and the electronic evidence placed on record.
29. It is settled that in cases involving sexual offences, particularly under the POCSO Act, the testimony of the victim, if found to be reliable and of sterling quality, can form the sole basis of conviction without the necessity of corroboration.
30. In the present case, the victim (PW-2), a minor aged about 7 years at the time of incident, has deposed before the Court regarding the conduct of the Appellant, who used to visit her house for supplying milk. Her testimony attributes specific acts to the Appellant and indicates that the incidents occurred during the absence of her parents. The said testimony cannot be brushed aside merely on account of her tender age, rather it requires careful appreciation.
31. The argument advanced on behalf of the Appellant regarding inconsistencies in the testimony of PW-1 does not, in the opinion of this Court, demolish the case. PW-1 is not an eyewitness to the occurrence, and his testimony is essentially based on what was disclosed to him by the victim. Any deviation or inconsistency in his



deposition, therefore, does not materially affect the core prosecution case, which rests upon the testimony of the victim.

32. It is true that PW-1 has, in certain portions of his testimony, not supported the state's version in its entirety. However, it is equally evident from the record that he has acknowledged material aspects, including the presence of the Appellant at the house and the circumstances in which the incident is stated to have occurred. Partial hostility of a witness does not render the entire case unreliable, and the Court is entitled to rely upon such portion of testimony which is found to be credible.
33. With regard to the electronic evidence in the form of a pen drive, the record indicates that the same was produced before the Court and the contents thereof were examined. The video files contained therein depict the presence of the Appellant with the minor victim and lend corroboration to the version of the state.
34. The contention raised regarding the chain of custody and compliance of Section 65-B of the Evidence Act has been considered. The record reflects that a certificate under Section 65-B has been placed on record. Any minor inconsistencies in the manner of preparation or transfer of the recording do not, in the facts of the present case, render the electronic evidence wholly unreliable, particularly when it is supported by the testimony of the victim.
35. As regards the medical evidence, it is correct that no injuries have been noted. However, it is well settled that absence of medical evidence or injuries is not fatal to the case in offences of this nature, especially where the victim is a minor and the testimony is otherwise found to be credible.



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36. The testimony of the victim stands consistent on material particulars and inspires confidence. There is nothing on record to indicate any motive for false implication of the Appellant. The relationship between the parties, as emerging from the record, rather indicates that the Appellant was a known person who had access to the premises, which is consistent with the case.

37. The learned trial court has carefully appreciated the evidence on record and has recorded findings of conviction after due consideration. This Court, while exercising appellate jurisdiction, does not find any perversity or illegality in the appreciation of evidence warranting interference.

### **ORDER**

In view of the foregoing discussion, the criminal jail appeal is devoid of merit and is accordingly dismissed.

The judgment and order dated 21.08.2025 passed by the learned Additional Sessions Judge/F.T.S.C., District Haridwar in Special Sessions Trial No. 114 of 2022 is hereby affirmed.

The conviction and sentence awarded to the Appellant shall stand maintained.

**(Ashish Naithani J.)**

Dated:07.05.2026

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