HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Miscellaneous (Petition) No. 88/2026

Aryan S/o Parshuram, Aged About 19 Years, Resident Of Jepho Ki Dhani, Tan Kaladera, Police Station Kaladera, District Jaipur (Rajasthan)

----Petitioner

Versus

1. State Of Rajasthan, Through The Public Prosecutor
2. Hansraj S/o Durgalal Raigar, Aged About 24 Years, Resident Of Power House Ke Pas Kaladera, Jaipur Rural Rajasthan.
3. Victim D/o Mangalchand Salodiya, Through Natural Guardian- Mother Smt. Jhuma Devi W/o Mangalchand Salodiya, Age About 35 Years, Resident Of Raigaro Ka Mohalla, Police Station Kaladera, Kaladera, District Jaipur (Rajasthan)

----Respondents

For Petitioner(s) : Mr. Prakhar Gupta, Adv.
For Respondent(s) : Mr. Amit Punia, PP
For Complainant(s) : Mr. Harshit Tiwari, Adv.
Ms. Anindya Gupta, Adv.

HON'BLE MR. JUSTICE ANIL KUMAR UPMAN
Order

REPORTABLE

12/01/2026

1. Instant Criminal Misc. Petition under Section 528 of BNSS has been filed on behalf of the petitioner for quashing of FIR No.169/2025, registered at Kaladera, Jaipur Rural for offence punishable under Section 137(2) of the Bharatiya Nyaya Sanhita, (in short 'BNS') 2023 and all consequential proceedings arising out of it including criminal proceedings in Session Case No.70/2025, pending before learned Special Judge, Protection of Children from Sexual Offences Act, 2012, Jaipur.

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2. After registration of the aforesaid FIR, the police conducted a thorough investigation into the matter and subsequently, filed a charge-sheet before the competent Court for offences punishable under Sections 137(2), 87, and 64(1) of the BNS, 2023 as well as Section 3/4 of the POCSO Act, 2012. Upon consideration of the charge-sheet, the learned trial Court took cognizance of the offences against the petitioner. After hearing arguments on the point of charge, the learned trial Court framed charges against the petitioner for offences under Sections 137(2) and 96 of the BNS, 2023, and Section 5(l)/6 of the POCSO Act, 2012, alternatively under Section 64(2)(m) of the BNS, 2023. The petitioner denied the charges so framed and sought trial.

3. Learned counsel for the petitioner contends that there is no material on record to prima facie attract the offences punishable under Sections 137(2), 96 and 64(2)(m) of the BNS, 2023 or Section 5(l), punishable under Section 6 of the POCSO Act, 2012. It is submitted that there is no allegation against the petitioner of having sexual relations with the victim, whether forcible or consensual, even on a single occasion, much less repeatedly. It is further contended that the victim had voluntarily left her parental home to accompany the petitioner, who is stated to be of approximately the same age. Learned counsel submits that the essential ingredients of Sections 137(2) and 96 of the BNS are not made out, as there is no material to indicate either taking away or active inducement on the part of the petitioner. Counsel further submits that at no stage of the investigation or trial has the victim

levelled any allegation against the petitioner and that, during the course of trial, she has been declared hostile.

4. The alleged victim and her brother, who happens to be the complainant/informant in the present case, are present in the Court along with their counsel. Under their instructions, counsel submits that victim and her brother are not intending to prosecute the petitioner and if this petition is accepted and proceedings are quashed against the petitioner, they have no objection. It is further submitted by learned counsel that at no stage of the proceedings has the victim levelled any allegation against the petitioner of any form of sexual abuse.

5. Learned State counsel submits that the present case involves peculiar facts and that this Court may pass an appropriate order in the interest of justice. He fairly concedes that neither of the statements made by the victim under Sections 180 or 183 of the BNSS contains any allegation of sexual activity or abuse against the petitioner.

6. To appreciate the contention advanced by all the parties, this Court would like to refer to the statements made by the victim at various stages of the proceedings under Sections 180 and 183 of the BNSS and during the course of trial. The statements under Sections 180 and 183 of BNSS and statements made during the course of trial are being reproduced here in that order-:

Statement of victim under Section 180 of BNSS:-

''ने दरियाप्त पुलिस पर बयान किया कि मैं उक्त पते की रहने वाली हूं। मैं xxxxxx कॉलेज xxxxx में पढाई कर रही हूॅ। मैं आर्यन मीणा पुत्र श्री परसु राम मीणा निवासी जैफो की ढाणी कालाडेरा जिला जयपुर को करीब

6 साल से जानती हूं। मैं व आर्यन एक ही xxxxxx स्कूल xxxxxx में दो साल तक साथ–साथ पढाई की थी। मेरे को आर्यन ने एक छोटा फोन दिया था व सिम भी उसी की थी। उसके बाद मैं आर्यन से बातचीत करने लग गयी। आर्यान ने मेरे को साथ चलने के लिए कहा तो मैं भी आर्यन के साथ जाने को तैयार हो गयी। मैं दिनांक 1.07.2025 को घर से कॉलेज का नाम लेकर सुबह समय करीब 09.30 बजे निकली थी। मैं शर्मा ढाबा बस स्टैण्ड कालाडेरा के सामने आकर खडी हो गयी। मैं सवारी जीप में बैठकर थाना मोड चौमू चली गयी जहां पर मेरे को आर्यन मीणा खडा मिला उसके साथ मैं मेरी मर्जी से बस में बैठकर जयपुर रेलवे स्टेशन चली गयी। उसके बाद हम दोनों ट्रेन से दिल्ली चले गये। दिल्ली से भी हम दोनों ट्रेन में बैठकर उज्जैन चले गये। उज्जैन में एक रात होटल में रुके थे। होटल का नाम मुझे पता नहीं है। मेरे साथ आर्यन ने कोई गलत काम नहीं किया। मैंने व आर्यन ने उज्जैन मंदिर में शादी कर ली। उसके बाद हम दोनों बस से इन्दौर चले गये। इन्दौर में कमरा दिराये पर लेकर हम दोनों पति–पत्नी के रूप में रहे थे। फिर आर्यन फेस्टीग कम्पनी में मजदूरी करने लग गया। कल दिनांक 26.07.25 को मेरा भैया xxxxxx व पुलिस वाले हमारे पास आ गये। हमारे को साथ में लेकर कालाडेरा थाना पर आ गये। मैं मेरी मर्जी से आर्यन के साथ गयी थी। मेरे को आर्यन जबरदस्ती बहला फुसलाकर लेकर नहीं गया था। मैं अब मेरे माता xxxxxx व पिता xxxxxx के साथ घर जाना चाहती हूँ।''

<u>Statement of victim under Section 183 of BNSS</u>

''मैं उक्त पते पर रहती हूं। मैं xxxxxx कॉलेज xxxxx में पढती हूं। दिनांक 01.07.2025 को सुबह के लगभग 9.30 बजे के लगभग घर से बिना बताये अपनी इच्छा से अकेली जयपुर से उज्जैन ट्रेन में बैठकर चली गई थी। उज्जैन में एक रात में मंदिर में ही रूकी थी। मैं आर्यन को नहीं जानती हूँ। दिनांक 26.07.2025 को मैं उज्जैन से वापिस अपने घर आ गई थी। मुझे कोई भगा कर लेकर नहीं गया था। मेरे साथ कोई गलत काम किसी ने नहीं किया। आर्यन को मैं नहीं जानती व उसने मेरे साथ कभी कोई गलत काम व मुझे घर से नहीं भगाया है। मुझे ढूंढते हुए घरवालों ने यह रिपोर्ट दर्ज करवाई थी। घरवालों को गलतफहमी हो गई थी कि मुझे आर्यन लेकर गया है जबकि मैं तो उसे जानती भी नहीं हूं। अब मैं राजीखुशी अपने घरवालों के साथ रह रही हूं। मुझे और कुछ नहीं कहना। ''

<u>Victim's Court statement :-</u>

''मैंने सबसे पहले xxxxxx स्कूल xxxxxx में प्रवेश में लिया था। मैं वर्तमान में xxxxxx कॉलेज xxxxx में पढाई कर रही हूं। मेरी जन्मतिथि 02.05.2006 है। आर्यन जिस स्कूल में पढता था मैं भी उसी स्कूल में पढती थी इसलिए उससे मेरी जान पहचान थी। आर्यन हमारे गांव का ही है

इसलिए उससे जान पहचान है। मैं आर्यन को बहुत सालों से नहीं जानती हूं अज खुद कहा कि मैं दसवीं कक्षा में थी और आर्यन नवीं कक्षा में था वह मेरा जूनियर था इसलिए उसे जानती हूं। दिनांक 01.07.2025 को सुबह की बात है, इस दिन मेरे मम्मी पापा मुझसे शादी करने के लिए जिद कर रहे थे तो मैं मेरे माता पिता से लडाई करके घर से चली गयी थी। मैं मेरे घर कालाडेरा से जीप में बैठकर चौंमू चली गयी थी और चौमू से जयपुर वाली बस में बैठकर रेलवे स्टेशन चली गई थी और स्टेशन से टिकट कराकर दिल्ली चली गयी थी और दिल्ली से उज्जैन चली गयी थी। मैं उज्जैन में महाकाल मंदिर के दर्शन के लिए चली गयी थी मुझे महाकाल के बारे में मेरे दोस्तों ने बताया था। चौंमू में मुझे कोई नहीं मिला था। मैं अपनी इच्छा से ही चौंमू गई थी। उज्जैन में मैं मंदिर में रूकी थी। इंदौर में मेरे साथ किसी ने कुछ नहीं किया था। मुझे इंदौर से वापस लेने के लिए मेरे भैया आ गये थे क्योंकि मेरे पास पैसे खत्म हो गये थे।''

7. Perusal of the above-mentioned statements would show that at no stage of the proceedings has the victim levelled any allegation against the petitioner and it also appears that she left her parental home on her own and remained in company of the petitioner willingly and visited several places with the petitioner and during this period she did not make any complaint or hue and cry. It is also evident from the record that at the time of alleged incident, victim was aged about 17 years and petitioner was aged about 19 years and for some time they studied in the same school. It is also evident that victim of this case is pursuing B.Sc. and she is of the age where she can exercise discretion and at the verge of attaining majority and was fully competent to understand the consequences of her actions.

8. This Court is deeply perturbed by the procedural trajectory of this case. The first and most glaring anomaly lies in the inclusion of Section 5(l)/6 of the POCSO Act. Section 6 deals with punishment of the offence of "Aggravated Penetrative Sexual Assault," a charge of the highest gravity carrying a minimum

sentence of twenty years. For such a charge to be sustained at the stage of framing, there must be a "grave suspicion" supported by some semblance of material evidence. However, a perusal of the victim's statements recorded under Sections 180 and 183 of the BNSS, however different they may be due to whatsoever reasons, clearly reveal a categorical and unwavering denial of any sexual atrocity. The victim has explicitly stated that no sexual intercourse, consensual or otherwise, took place between her and the petitioner. This Court also takes into account that the Rape Examination Report prima facie reveals that there was no evidence of sexual assault being committed upon the victim.

9. It is incomprehensible for this Court as to how the investigating agency, in the face of an uncorroborated medical report and a categorical denial by the victim herself, could arrive at a conclusion of filing a charge-sheet with the offence punishable under Section 3/4 of the POCSO Act. It is a matter of profound concern that the police chose to ignore the primary evidence and then filed a charge-sheet for such heinous offences for which there exists harsh penal provisions containing stringent imprisonment. It is important to note that the POCSO Act is a powerful, stringent piece of legislation with a high threshold for bail and contains severe mandatory minimum sentences. Thus, when the police invoke these sections mechanically against a young individual in such cases, the law is transformed from a shield for the vulnerable into a sword for prosecution purposes. The psychological and social trauma of being labelled an "aggravated sexual offender" is immense. To subject a nineteen-year-old to this ordeal, despite the victim's categorical denial, suggests an intent to punish the

petitioner for the act of elopement or sexual harassment rather than to prosecute him for a genuine crime.

10. This Court then looks at the charges framed, and recognises the failure of the learned trial Court to act as a judicial bulwark against such overreach. While considering the issue of charge, a learned Judge is not a mere spectator. The Court is required to apply its judicial mind to see if the ingredients of the offence are even prima facie made out. It is the duty of the Court to prevent any abuse of the process of law, particularly when it is noticed nation-wide that cases are severely increasing of misuse of the penal provisions, the Courts are required to be more vigilant and careful while considering the issue of framing charges against the accused. In the present case, the learned Special Judge appears to have acted as a mere post office for the prosecution, framing charges for a crime that has not been alleged or is supported by a single piece of evidence.

11. The Hon'ble Supreme Court has elaborately discussed the powers of criminal Courts at the stage of framing of charges in the case of **Dilawar Balu Kurane v. State Of Maharashtra, reported in 2002 (2) SCC 135** and observed as under-:

> "12. Now the next question is whether a prima facie case has been made out against the appellant. In exercising powers under Section 227 of the Code of Criminal Procedure, the settled position of law is that the Judge while considering the question of framing the charges under the said section has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or nor a prima facie case against the accused has been made out; where the materials placed before the court disclose grave suspicion against the accused which has not been property explained the court will by fully justified in framing a charge and proceeding

> with the trial; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully justified to discharge the accused, and in exercising jurisdiction under Section 227 of the Code of Criminal Procedure, the Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court but should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial [See Union of India versus Prafulla Kumar Samal & Another (1979 3 SCC 5)].”

12. Regarding the charge of kidnapping, the landmark decision in **S. Varadarajan v. State of Madras (AIR 1965 SC 942)** cannot be ignored. A Constitutional Bench of the Hon’ble Supreme Court in the said case made a vital distinction between "taking" a minor and a minor "accompanying" an accused. The Court held that if a minor, having the capacity to understand the import of her actions, voluntarily abandons the protection of her guardian to join the accused, it cannot be termed as "taking" under Section 361 of the IPC. In this case it was observed-:

> “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 s.361 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. 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".”

13. In the instant case, the victim was seventeen years of age, an age where she can clearly use her discretion. She was not a child of tender years who could be easily enticed. The record is devoid of any evidence of active inducement. Following the ratio in ***S. Varadarajan (supra)***, since the victim left her home on her own volition to be with the petitioner, the essential ingredient of "taking" is absent. The petitioner did not "take" her; he merely provided company to a young girl who had already decided to leave her home.

14. The POCSO Act was enacted to protect children from sexual predators and exploiters. It cannot be said that the legislative

intent was to use this stringent law to persecute young adults involved in consensual, albeit socially unaccepted, relationships. When the "victim" herself pleads for the innocence of the accused and the medical report prima facie supports this, the Court cannot shut its eyes to how the proceedings have been conducted in the trial Court, not only in this case but also in other similar cases where the Special POCSO Courts are adopting a mechanical approach at the stage of framing of charge and while deciding the bail applications.

15. As recently observed by the Hon'ble Supreme Court in **State of Uttar Pradesh Vs. Anurudh & Anr, Petition for Special Leave to Appeal (Crl.) No.10656/2025, decided on 09.01.2026**, there is an urgent need to distinguish between exploitative conduct and age-proximate, consensual relationships. The rigid application of the POCSO Act in cases where a seventeen-year-old girl and a nineteen-year-old boy are involved in a voluntary relationship ignores the lived reality of adolescent autonomy and converts a protective statute into a punitive tool of social regulation. The Hon'ble Supreme Court in the aforementioned case observed and passed directions as under-:

> "19. As the conclusions drawn above indicate the impugned judgment and order of the High Court has to be set aside on grounds of transgression of the jurisdiction present and thereby lacking the appropriate directions. It is to be set aside also because it goes against the statutory prescription under the JJ Act. Be that as it may, this Court has not lost sight of the well-intentioned purport of this order. The POCSO Act is one of the most solemn articulations of justice aimed at protecting the children of today and the leaders of tomorrow. Yet, when an instrument of such noble and one may even say basic good intent is misused, misapplied

and used as a tool for exacting revenge, the notion of justice itself teeters on the edge of inversion. Courts have in many cases sounded alarm regarding this situation. Misuse of the POCSO Act highlights a grim societal chasm - on the one end children are silenced by fear and their families are constrained by poverty or stigma, meaning thereby that justice remains distant and uncertain, and on the other hand, those equipped with privilege, literacy, social and monetary capital are able to manipulate the law to their advantage. The impugned judgment is one amongst many where Courts have spoken out. Not only are instances rife where the age of the victim is misrepresented to make the incident fall under the stringent provisions of this law but also there are numerous instances where this law is used by families in opposition to relationships between young people. In Satish alias Chand v. State of U.P., the High Court, noted that on few occasions concern had been expressed by the Court with respect to application of the Act on consenting adolescence when it comes to consensual relationships between teenagers, four factors have been highlighted which, is crucial for the Courts to consider:

"A. Assess the Context: Each case should be evaluated on its individual facts and circumstances. The nature of the relationship and the intentions of both parties should be carefully examined.

B. Consider Victim's Statement: The statement of the alleged victim should be given due consideration. If the relationship is consensual and based on mutual affection, this should be factored into decisions regarding bail and prosecution.

C. Avoid Perversity of Justice: Ignoring the consensual nature of a relationship can lead to unjust outcomes, such as wrongful imprisonment. The judicial system should aim to balance the protection of minors with the recognition of their autonomy in certain contexts. Here the age comes out to be an important factor.

D. Judicial Discretion: Courts should use their discretion wisely, ensuring that the application of POCSO does not inadvertently harm the very individuals it is meant to protect."

The Delhi High Court in **Sahil v. the State NCT of Delhi** the Court noted in para 11 of the order that POCSO cases filed at the behest of a girl's family objecting to romantic involvement with a young boy have become common place and consequent thereto these young boys languish in jails. Therein, reference is also made to an order of the Gujarat High Court35, where the Court noted that considering the closeness in age of the prosecutrix and the accused as also the fact that she had left home of her own accord observed that the application deserved consideration.

This chasm between access and abuse is also mirrored in the misuse of Section 498-A IPC and the Dowry Prohibition Act, 1961. Amongst numerous examples, we may only refer to **Rajesh Chaddha v. State of U.P**, where this Court lamented the use of these Sections without specific instances or relevant details, among other cases. It is also to be stated though that no amount of judicial vigilance against misuse can alone bridge this ever-widening gap. The first line of defence lies with the Bar i.e., the body that translates grievance into action and is the gatekeeper of justice at the point entry. When it comes to matters such as these, the responsibility of the advocate is profound – to examine the allegations with detachment and necessary discretion and to counsel restraint when grievance masks vengeance and to refuse participation in litigation when it can be seen that an ulterior motive is sought to be agitated under the guise of seeking protection of the law. It is only when the Bar takes a principled, proactive role, that the legislation intended as a shield can be stopped from being twisted into a weapon. A lawyer who tempers aggression with calm, reason and rationality, protects not only the opposing party from unwarranted harm but also the client from the long-term consequences of frivolous or malicious litigation, including adverse orders, and judicial censure. By taking a principled stand, the Bar acts as a crucial filter, preventing the legal system from being overwhelmed by abuse masquerading as enforcement. Such self-regulation strengthens public faith in the profession, ensures that judicial time is reserved for genuine disputes, and reinforces the foundational idea that law is a means of justice, not a weapon of convenience. In this sense, the ethical vigilance of lawyers is not ancillary to justice, it is indispensable to

it. When they do not do so, the chasm alluded to above widens. Society also must match institutional reform with moral awakening. The intent and object of these legislations must be at the forefront when a person wishes to lodge a complaint thereunder. The misuse of these laws is a mirror to the opportunistic and self-centered view that pervades the application of law. It is only through discipline, integrity and courage that these problems can be remedied and rooted out. Any legislative amendment or judicial direction will remain lack-luster without this deeper change.

We have referred to certain instances of the High Courts noting the misuse/misapplication of the POCSO Act, somewhat in line with the indices appended to the impugned judgment as also its progenitors.

Considering the fact that repeated judicial notice has been taken of the misuse of these laws, let a copy of this judgment be circulated to the Secretary, Law, Government of India, to consider initiation of steps as may be possible to curb this menace inter alia, the introduction of a Romeo – Juliet clause exempting genuine adolescent relationships from the stronghold of this law; enacting a mechanism enabling the prosecution of those persons who, by the use of these laws seeks to settle scores etc.”

16. While making a note that the current case seems to be devoid of any sexual activity between the alleged victim and the accused, this Court would also like to take into account the recent growth of these “Romeo and Juliet” cases which emphasizes a growing concern that the current legal framework fails to distinguish between predatory sexual exploitation and consensual adolescent relationships. By maintaining a strict age of consent at eighteen without any provision for close-age proximity, the law inadvertently creates a category of "statutory victims" who do not perceive themselves as such. In elopement cases like the present one, the criminal justice system is often triggered by parental disapproval rather than a genuine need for child protection. This

lack of a nuanced exception forces the judiciary to treat young adults as criminals, ignoring the reality that adolescents near the age of majority possess a degree of emotional and sexual autonomy that a rigid interpretation of the statute refuses to acknowledge.

17. Research and law commission reports suggest that a significant percentage of POCSO cases are essentially "non-predatory" in nature, often involving couples who intend to marry or are already in a committed relationship. The mechanical application of the law in these scenarios does not serve the legislative intent of protecting children from abuse; instead, it results in the unnecessary incarceration of youth and the social stigmatization of both parties. When a girl of seventeen is treated as a person without agency, the law effectively denies her the right to her own narrative, prioritizing a protective legal fiction over her actual lived experience. This systemic failure to account for adolescent maturity leads to a situation where the legal machinery becomes a tool for familial control and State-sponsored harassment, rather than a shield against sexual violence.

18. This Court cannot ignore the alarming statistical reality that has emerged since the enactment of the POCSO Act and the subsequent Criminal Law Amendment Act of 2013. Judicial experience, supported by various legal and sociological studies, indicates that a significant percentage of cases involve situations where the minor, typically between the age of 16 to 18, testifies to a consensual relationship. What would not have been categorized as a crime prior to 2012 is now a punishable offense irrespective of the girl’s consent, often carrying a mandatory minimum

sentence of ten years. This legislative shift has significantly curtailed judicial discretion, leaving Courts with little maneuverability to deliver substantive justice in cases where there is a clear absence of predatory intent. To ignore the salience of this trend is to overlook a systemic problem where the law, in its quest for absolute protection, inadvertently criminalizes adolescent autonomy and subjects young adults to a punitive framework designed for heinous offenders.

19. In addition, a clear injustice occurs when the harshness of the punishment is completely out of proportion to the nature of the offence due to the ongoing reluctance to include a close-age exception in the legal framework. Charging a young man with aggravated penetrative sexual assault in the context of a consensual elopement shows how the law can be used as a weapon to uphold societal norms, particularly when the victim disputes that such acts really took place. The state's interest in protecting children must be weighed against the constitutional rights to privacy and individual choice. Without this equilibrium, the legal system is stuck in a vicious loop of criminalizing teenage love, which not only clogs the Courts but also causes severe psychological harm to the very people the statute was intended to protect.

20. The human cost of such a mechanical prosecution cannot be overstated. The Petitioner, a mere youth of nineteen years, stands at the threshold of his life. To subject him to a trial for Aggravated Penetrative Sexual Assault, an offense carrying a minimum of twenty years of rigorous imprisonment, in the absence of even a shred of incriminating medical or ocular evidence, is to place his

entire future at the altar of a rigid and unforgiving statutory interpretation. Such an approach fundamentally undermines the reformative essence of Indian jurisprudence. If a young man is incarcerated for the better part of his youth for an act that lacked predatory intent and was, in fact, an expression of adolescent choice, the justice system fails in its duty to rehabilitate. Rather than protecting society, such misplaced severity risks releasing a hardened and embittered individual back into the community after two decades, effectively destroying a life that could have been productive and law-abiding. The law must not be so blind in its pursuit of protection that it becomes an engine of destruction for the very youth it seeks to govern.

21. This Court is further reminded of a striking instance previously brought before this very Bench, which serves as a poignant illustration of the situations which can arise from a purely chronological interpretation of the law. In that matter, the victim was precisely, merely an hour away from attaining legal majority, when alleged act of sexual abuse was committed upon her and case was registered under the charges of POCSO Act. To suggest that the character of an act undergoes a seismic legal transformation from a consensual private matter to a heinous, aggravated offence within a span of sixty minutes is to ignore the physical and mental reality of human development. When the law is applied with such clinical rigidity, it ceases to be an instrument of justice and becomes a tool for misuse.

22. In light of these recurring judicial challenges, this Court finds it imperative to suggest that the Union Government and the relevant legislative bodies undertake a comprehensive review of

the current statutory framework. There is a pressing need to bridge the gap between the protective intent of the POCSO Act and the sociological reality of adolescent autonomy. This Court urges the Government to consider the introduction of a clause which grants exemption in such cases where the supposed perpetrator and the victim are in close proximity of age. When a child turns 16, they experience hormonal changes and puberty which lead to many such adolescent relationships. When these cases involve people of ages from 16-19, these are often innocent relationships without any predatory intentions. An exemption clause in this regard or a clause granting judiciary the discretion to adjudicate these cases looking at the particular facts and circumstances would grant the Judiciary the necessary maneuverability to distinguish between predatory sexual abuse and consensual intimacy between adolescents. Such an amendment would be in high consonance with the observations of the Hon'ble Supreme Court in **State of U.P. (Supra)**, where the Court highlighted the need for a more nuanced approach in cases involving adolescents near the age of majority. A legislative clause of this nature would provide the Court with the jurisdiction to exercise discretion in cases involving minor age gaps, thereby preventing the unnecessary criminalization of youth. Until the legislature provides such a balanced mechanism, the Courts will continue to be burdened with cases that do not serve the true spirit of the law, resulting in the wastage of judicial time and the destruction of young lives.

23. In wake of the discussion made hereinabove, this Court deems it a fit case for exercising powers under Section 528 of

BNSS (Corresponding to Section 482 of Cr.P.C) for quashing the impugned FIR and all consequential proceedings arising out of it as continuance of further proceedings before the learned trial Court would amount to abuse of the process of law. Accordingly, the impugned FIR No.169/2025, registered at Kaladera, Jaipur Rural for offence punishable under Section 137(2) of BNS and all consequential proceedings arising out of it including criminal proceedings in Session Case No.70/2025, pending before learned Special Judge, Protection of Children from Sexual Offences Act, 2012, Jaipur are hereby quashed and set aside.

24. Accordingly, the Criminal Misc. Petition is allowed.

25. The stay application and pending application(s), if any, also stand disposed of.

(ANIL KUMAR UPMAN),J

Manoj Solanki/-165