IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL (FOR ENHANCEMENT) NO. 810 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE ILESH J. VORA

and
HONOURABLE MR. JUSTICE R. T. VACHHANI

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Approved for Reporting	Yes	No

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STATE OF GUJARAT
Versus
RANJIT @RAJVER JILUBHAI GIDA

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Appearance:
MR JAY S. MEHTA, APP for the Appellant(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE ILESH J. VORA**
and
HONOURABLE MR. JUSTICE R. T. VACHHANI

Date : 29/04/2026

ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)

1. The present appeal has been preferred by the State invoking the provisions of Section 418 of Bharatiya Nagrik Suraksha Sanhita(for short B.N.S.S), 2023 seeking enhancement of the sentence imposed by the learned 4th Additional Sessions Judge (Special POCSO Court) in Special POCSO Case No. 74 of 2015, arising out of C.R. No. I-5 of 2015 registered with Junagadh B-Division Police Station for the offence punishable under Sections 363, 366, 376, 114 of the IPC and Sections 4 and 11 of the POCSO Act and sentencing the respondent for the offence under Section

366 of the IPC to undergo 02 years rigorous imprisonment and a fine of Rs.1,000/-, and in default of payment of fine, to further undergo thirty days simple imprisonment; for the offence under Section 376 of the IPC to undergo 07 years rigorous imprisonment and a fine of Rs.1000/-, and in default of payment of fine, to further undergo six months rigorous imprisonment; for the offence under Section 04 of the POCSO Act to undergo 07 years rigorous imprisonment and a fine of Rs.5,000/-, and in default of payment of fine, to further undergo thrity days simple imprisonment and for the offences under Section 11 of the POCSO Act to undergo 03 years rigorous imprisonment and a fine of Rs.1,000/-, and in default of payment of fine, to further undergo 30 days simple imprisonment.

2. The State has consciously confined the scope of the present appeal only to the issue of enhancement of sentence and has, therefore, refrained from making any submissions on the merits of the conviction recorded by the learned 4th Additional Sessions Judge (Special POCSO Court). In view of the limited scope of the present appeal, a detailed narration of the entire factual matrix is not warranted. However, for the purpose of appreciating the gravity of the offence and to effectively address the issue involved in the present appeal, the facts in brief, as emerging from the record, are required to be narrated.

3. As per the prosecution case, the respondent–accused had lured and taken away the victim, who was aged about 16 years at the relevant point of time. It is alleged that the accused had enticed the minor victim on two occasions. On the second occasion, the victim went missing from the house of the complainant’s brother at around 3:00 PM and could not be traced despite extensive search.

4. The complainant suspected that the accused, aged about 20-23 years, had again abducted the minor victim with ill intention. Pursuant thereto, investigation was carried out by the Investigating Agency and upon completion of investigation, a charge-sheet came to be filed against the accused before the learned 4th Additional Sessions Judge (Special POCSO Court) where the accused was put to trial. Upon conclusion of the trial and appreciation of the oral as well as documentary evidence on record, the learned Special Judge convicted the accused and imposed the sentence as stated hereinabove.

5. Being aggrieved and dissatisfied with the inadequacy of the sentence awarded, the State has preferred the present appeal under Section 418 of B.N.S.S,, contending that considering the nature of the offence, the age of the victim and the manner in which the crime was committed, the punishment imposed by the learned 4th Additional Sessions Judge (Special POCSO Court) is neither just nor proportionate and therefore deserves enhancement.

6. Further the submissions advanced on behalf of the appellant–State, that the learned 4th Additional Sessions Judge (Special POCSO Court) ought to have taken into consideration the provisions of Sections 4 and 11 of the POCSO Act. It is submitted that the victim was a minor aged about 16 years and the accused had enticed and abducted her. It is further submitted that the victim had stated on oath that the accused had abducted her while she was a minor and established physical relations with her. However, from the impugned judgment, it transpires that there was no direct or indirect evidence on record except the statement of the victim and the medical evidence. The learned 4th Additional

Sessions Judge (Special POCSO Court), after appreciating the evidence in entirety on record and by granting due opportunity of hearing to the concerned, exercised discretion in imposing the sentence.

6.1 The issue that therefore arises for consideration before this Court is whether the sentence so imposed can be said to be grossly inadequate or disproportionate so as to warrant interference by this Court in exercise of powers under Section 418 of B.N.S.S.

7. At this juncture, it is required to be placed on record that since the present appeal, as fairly submitted by the learned APP for the State, is confined only to the issue of enhancement of sentence, the other aspects of the matter are not required to be dealt with. However, in order to address the issue as to whether the sentence awarded by the learned 4th Additional Sessions Judge (Special POCSO Court) is appropriate, adequate, just and proportionate, commensurate with the nature and gravity of the crime and the manner in which the crime was committed, it is necessary to consider the crux of the conclusions recorded by the learned 4th Additional Sessions Judge (Special POCSO Court) along with provisions contenting punishment.

8. While equating the facts of the case on hand, it emerges that the victim was about 16 years of age at the time of the incident. However, the offence in question pertains to the year 2015 and, therefore, the provisions as they stood at the relevant time would govern the field.

8.1 At the relevant point of time, Section 376 of the IPC

prescribed a minimum sentence of seven years rigorous imprisonment, extendable to life, along with fine. The subsequent enhancement of minimum punishment to ten years, brought into effect by later amendments including those applicable where the victim is below 16 years, is prospective in nature and cannot be applied to the present case.

8.2 So far as Section 4 of the POCSO Act is concerned, even at the relevant time, the said provision prescribed a minimum punishment of seven years rigorous imprisonment which could extend to life imprisonment. The amendment to Section 4 of the POCSO Act enhancing the minimum sentence to ten years and inserting sub-section (2) providing for minimum twenty years rigorous imprisonment for penetrative sexual assault on a child below sixteen years of age was brought into force by the Protection of Children from Sexual Offences (Amendment) Act, 2019, which is prospective in nature and has no application to the present case.

8.3 Thus, the sentence of seven years rigorous imprisonment imposed upon the respondent-accused under Section 4 of the POCSO Act is just, adequate and proportionate to the facts of the case and the statutory provisions prevailing at the time of commission of the offence. The same, therefore, does not call for any enhancement.

Section 4 of the POCSO Act :-

It is also pertinent to note that Section 4 of the POCSO Act has been amended by the Protection of Children from Sexual Offences (Amendment) Act, 2019. By the said amendment, Section 4 has been renumbered as Section 4(1) and in “(a) sub-section (1) as so renumbered, the words “seven years” have been substituted by the words “ten years”. Further, after sub-section (1), the following sub-

> sections have been inserted: (2) Whoever commits penetrative sexual assault on a child below sixteen years of age shall be punished with imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine. (3) The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim."

9. The Hon'ble Supreme Court has referred to the case of **Soman vs. State of Kerala,** reported in **(2013) 11 SCC 382** and **Alister Anthony Pareira v. State of Maharashtra reported in (2012) 2 SCC 648** and has made observations in Paragraphs 10, 11, 12, 13 and 14 as under :-

> "10. Currently, India does not have structured sentencing guidelines that have been issued either by the legislature or the judiciary. However, the Courts have framed certain guidelines in the matter of imposition of sentence. A Judge has wide discretion in awarding the sentence within the statutory limits. Since in many offences only the maximum punishment is prescribed and for some offences the minimum punishment is prescribed, each Judge exercises his discretion accordingly. There cannot, therefore, be any uniformity. However, this Court has repeatedly held that the Courts will have to take into account certain principles while exercising their discretion in sentencing, such as proportionality, deterrence and rehabilitation. In a proportionality analysis, it is necessary to assess the seriousness of an offence in order to determine the commensurate punishment for the offender. The seriousness of an offence depends, apart from other things, also upon its harmfulness.
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> 11. This Court in the case of Soman Vs. State of Kerala [(2013) 11 SCC 382] observed thus :
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> > "27.1. Courts ought to base sentencing decisions on various different rationales –

most prominent amongst which would be proportionality and deterrence.

27.2. The question of consequences of criminal action can be relevant from both a proportionality and deterrence standpoint

27.3. Insofar as proportionality is concerned, the sentence must be commensurate with the seriousness or gravity of the offence.

27.4. One of the factors relevant for judging seriousness of the offence is the consequences resulting from it.

27.5. Unintended consequences/harm may still be properly attributed to the offender if they were reasonably foreseeable. In case of illicit and underground manufacture of liquor, the chances of toxicity are so high that not only its manufacturer but the distributor and the retail vendor would know its likely risks to the consumer. Hence, even though any harm to the consumer might not be directly intended, some aggravated culpability must attach if the consumer suffers some grievous hurt or dies as result of consuming the spurious liquor."

12. The same is the verdict of this Court in Alister Anthony Pareira Vs. State of Maharashtra [(2012) 2 SCC 648] wherein it is observed thus:

"84. Sentencing is an important task in the matters of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and

> proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straitjacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: the twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the crime, motive for the crime, nature of the offence and all other attendant circumstances."

10. In **Bed Raj v. State of Uttar Pradesh** reported in **1955 (2) SCR 583**, the Hon'ble Supreme Court has concluded that the question of sentence is a matter of discretion and it is well settled that when discretion has been properly exercised along accepted judicial lines, an appellate court should not interfere to the detriment of the accused person except for very strong reasons, which must be disclosed on the face of judgment. It was further held that in a matter of enhancement, there should not be interference when the sentence passed imposes substantial punishment wherein it has been held that in matters relating to enhancement of sentence, interference is not warranted where the sentence imposed is just and proper.

11. From the aforementioned observations, it is clear that the principle governing the imposition of punishment will depend upon the facts and circumstances of each case. However, the sentence should be appropriate, adequate, just, proportionate and commensurate with the nature and gravity of the crime and the

manner in which the crime is committed. The gravity of the crime, motive for the crime, nature of the crime and all other attending circumstances have to be borne in mind while imposing the sentence. It further transpires as observed that the Court cannot afford to be casual while imposing the sentence, inasmuch as both the crime and the criminal are equally important in the sentencing process. The Courts must see that the public does not lose confidence in the judicial system. Imposing inadequate sentences will do more harm to the justice system and may lead to a state where the victim loses confidence in the judicial system and resorts to private vengeance.

12. In view of the aforesaid discussion, this Court is of the considered opinion that the sentence imposed by the learned 4th Additional Sessions Judge (Special POCSO Court) cannot be said to be either inadequate or disproportionate so as to warrant interference in an appeal for enhancement under Section 418 of BNSS, 2023. The learned 4th Additional Sessions Judge (Special POCSO Court) has exercised discretion judiciously and within the statutory framework. No compelling or exceptional circumstances are made out by the State to justify enhancement of sentence. Accordingly, the present appeal stands dismissed. Record and Proceedings be sent back to the concerned Special Court forthwith.

(ILESH J. VORA,J)

(R. T. VACHHANI, J)

Kaushal Rathod