

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/CRIMINAL APPEAL (AGAINST CONVICTION) NO. 1455 of 2015****With****CRIMINAL MISC.APPLICATION (TEMPORARY BAIL) NO. 1 of 2026****In R/CRIMINAL APPEAL NO. 1455 of 2015****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE ILESH J. VORA****and****HONOURABLE MR. JUSTICE R. T. VACHHANI**

Approved for Reporting		
Yes	No	

ARVINDBHAI @ BHADABHAI SHANABHAI @ SHANKARBHAI CHAUHAN

Versus

STATE OF GUJARAT

Appearance:

MR PRATIK B BAROT(3711) for the Appellant(s) No. 1

MR JK SHAH, APP for the Opponent(s)/Respondent(s) No. 1

**CORAM: HONOURABLE MR. JUSTICE ILESH J. VORA**

and

**HONOURABLE MR. JUSTICE R. T. VACHHANI**

**Date : 07/01/2026**

**ORAL JUDGMENT**

**(PER : HONOURABLE MR. JUSTICE R. T. VACHHANI)**

1. Feeling aggrieved and dissatisfied with the judgment and order of conviction and sentence dated 15.09.2015 passed by the learned Additional Sessions Judge and Special Judge, Panchmahal at Godhra in Special Case No. 24 of 2014 under the Protection of Children from Sexual Offences Act (POCSO Act), the appellant-accused has been convicted of offences punishable under Section 376(2)(i)(d) read with

Section 114 of the Indian Penal Code, 1860 (IPC), Sections 3(1)(xi) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The learned Sessions Court sentenced the appellant-accused to undergo Rigorous Imprisonment for life and fine of Rs. 50,000/- with default stipulation, and in the alternative, Rigorous Imprisonment for 10 years and fine. Consequently, the appellant-accused has preferred the present Criminal Appeal under Section 374 of the Code of Criminal Procedure, 1973 (CrPC), challenging the said conviction and sentence.

2. The brief facts that have given rise to the filing of the present appeal are comprehensively set out as follows:

2.1. The prosecutrix, who was a minor girl aged approximately 11 years belonging to the Scheduled Tribe community and residing with her grandparents in village Amliyara, Taluka Kalol, District Panchmahal, made serious allegations against the appellant-accused. According to her complaint, on 01.05.2013 at approximately 08:00 a.m., she was sent by one Mohanbhai to purchase beedis from Balakaka's shop located in the village. While returning from the shop carrying the beedis, accused No.1 along with accused No.2 allegedly caught hold of her, forcibly dragged her to a secluded jungle area situated near the hill within the village limits, and committed forcible sexual intercourse against her will and consent. The specific allegations included that accused No. 1 pressed her mouth to stifle her cries and prevent her from seeking help, forcibly removed her lower garments as well as his own garments, and penetrated her vagina forcibly, causing bleeding and physical injuries to her. It was further alleged that the other accused person stood watch during the commission of the offence. After the traumatic incident, the prosecutrix

returned home in a dazed and distressed state, informed her aunt Mamtaben about the incident, who subsequently summoned the grandmother Maniben. This led to a formal complaint being lodged through the sarpanch at Vajlpur Police Station, which was duly registered as I-C.R. No. 63 of 2013.

2.2. Following the registration of the FIR, a comprehensive investigation ensued under the supervision of the investigating authorities. The investigation included recording detailed statements of all relevant witnesses, preparation of panchnamas of the crime scene and seizure of material evidence (muddamal) including soil samples with blood stains and the prosecutrix's clothes, conducting medical examination of both the prosecutrix and accused No. 1, effecting the arrest of accused No. 1 and seizure of his clothes as potential evidence, and forwarding all collected samples to the Forensic Science Laboratory (FSL), Gandhinagar for detailed scientific analysis and examination. Upon finding sufficient prima facie evidence against accused No. 1 during the course of investigation, a chargesheet was duly filed against him under the aforementioned sections of law. Since the case was triable by the Special Court under the POCSO Act provisions, it was committed to the Special Court and registered as Special Case No. 24 of 2014. Formal charges were framed against the accused, to which he pleaded not guilty and claimed his right to trial.

3. During the course of the trial proceedings, the prosecution examined comprehensive oral and documentary evidence to establish the guilt of the appellant-accused. The evidence included the testimony of the prosecutrix herself, medical evidence from examining doctors, forensic evidence from laboratory analysis, and testimony from investigating officers and other relevant witnesses to substantiate the charges framed

against the accused.

**Oral Evidence**

Sr. No.	Particulars	Exh. No.
1	PW-1: Deposition of Prosecutrix	11
2	PW-2: Deposition of Narasinh Mohansinh Gohil	17
3	PW-3: Deposition of Kanubhai Bhalabhai Gohil	22
4	PW-4: Deposition of Somabhai Mangalabhai Chauhan	23
5	PW-5: Deposition of Ganpatbhai Pratapbhai Parmar	28
6	PW-6: Deposition of Mohansinh Amarsinh Patel	29
7	PW-7: Deposition of Chandrasinh Shanabhai Parmar	31
8	PW-8: Deposition of Bhavikkumar Gopalbhai Raval	36
9	PW-9: Deposition of Dr. Kamleshprasad Shivnandan Prasad	38
10	PW-10: Deposition of Dr. Rajenbhai Bhagwanbhai Chudasama	41
11	PW-11: Deposition of Maniben Mohanbhai Nayak	43
12	PW-12: Deposition of Mamtaben Girishbhai Nayak	44
13	PW-13: Deposition of Hareshbhai Govindbhai Pallacharya	45
14	PW-14: Deposition of Virendrasinh Nandsinh Chauhan	47

<b>Sr. No.</b>	<b>Particulars</b>	<b>Exh. No.</b>
15	PW-15: Deposition of Baluben Deepsinh	48
16	PW-15: Deposition of Bhimjibhai Shankarbhai Ninama	49
17	PW-16: Deposition of Bhavnaben Rakeshkumar Patel	51
18	PW-17: Virendrasinh Nandsinh Chaudhan	53

**Documentary Evidence**

<b>Sr. No.</b>	<b>Particulars</b>	<b>Exh. No.</b>
1	FIR/Complaint	8
2	Panchnama of Crime Scene	18
3	Panchnama of Accused No.1's Body Condition	24
4	Arrest Panchnama of Accused No.1	25
5	Discovery Panchnama u/s 27 CrPC (Scene Pointed by Accused)	30
6	Panchnama of Seizure of Prosecutrix's Clothes	32
7	Panchnama of Accused No.2's Body Condition	37
8	Medical Legal Certificate (MLC) of prosecutrix from General Hospital	39
9	MLC of prosecutrix	42
10	MLC of Accused No.1	40

<b>Sr. No.</b>	<b>Particulars</b>	<b>Exh. No.</b>
11	Caste Certificate of Prosecutrix (SC/ST)	50
12	Report by Investigating Officer to PSO	55
13	Muddamal Separation Memo	56
14	Letter to FSL	57
15	Muddamal Dispatch Note	58
16	Preliminary FSL Report	46
17	Physical Fitness Certificate of Accused No.1	59
18	FSL Report on Muddamal Examination	61
19	Serology Examination Report	62

4. After the closure of prosecution evidence and recording the statement of the accused under Section 313 CrPC, wherein he categorically denied all charges and attributed his false implication to enmity with the sarpanch arising from electoral rivalry, the learned Special Court proceeded to appreciate the evidence in its entirety. Upon careful consideration and evaluation of all evidence presented, the learned Special Court convicted accused No. 1 as stated above, while simultaneously acquitting accused No. 2 due to lack of proper identification and insufficient corroboration of evidence against him.

5. The learned advocate for the appellant assailed the impugned judgment, contending with considerable force that the prosecution had fundamentally failed to prove the charges beyond reasonable doubt, which is the standard requirement in criminal cases. He submitted with specific reference to the evidence that the testimony of the prosecutrix (PW-1, Exh. 11), who was a child witness aged approximately 11 years and an illiterate villager, was replete with material contradictions and significant omissions when compared to her FIR (Exh. 8) and her statement recorded before the police during investigation. He specifically pointed out several discrepancies, including the fact that in the FIR, she mentioned being sent by "dada Maganbhai" but in her deposition before the court, she clarified it was Mohanbhai, who was her neighbor. He further argued that the description of being dragged for approximately 50 feet with her head rubbing against the ground causing abrasion was completely absent in the FIR. Additionally, regarding the post-incident circumstances, she claimed in her police statement that she had fainted briefly, but in her court deposition, she stated that she merely rested due to bleeding, thereby creating a material inconsistency in her version of events. The learned advocate for the appellant further contended that the FIR appeared to be tutored and dictated by the sarpanch, containing sophisticated language that was unfit for a minor child to articulate, with only her signature or thumbnail impression appearing below the complaint, thereby raising serious doubts about the voluntariness and authenticity of the complaint. He argued that no independent witness such as the shopkeeper Balakaka was examined to corroborate her visit to purchase beedis, nor were any beedis recovered from the crime scene, which undermined the foundational fact of her presence at the alleged location.

6. The learned advocate for the appellant further submitted that the

prosecutrix had completely failed to identify the second person (accused No. 2) despite his presence during the trial proceedings, and no identification parade was conducted by the investigating authorities to establish the identity of the accused persons, which significantly weakened the prosecution case. He emphasized that the medical evidence presented through PW-9 (Exh. 38), PW-10 (Exh. 41), and Exh. 42 showed no external injuries on her body including the waist, chest, thighs, face, and breasts, despite the alleged forceful dragging and physical resistance, which was highly unnatural for a case involving rape of a minor child. He pointed out that while PW-9, Dr. Kamleshprasad, noted that the hymen was ruptured and there was vaginal bleeding, there were no genital tears or scratches observed during the initial examination. The prosecutrix was subsequently referred to SSG Vadodara where surgical intervention revealed a lateral vaginal wall tear measuring 3-4 cm with stitches and 100 gm blood clots, but he argued that this medical condition was entirely consistent with possible self-injury such as a fall while playing. He further questioned the reliability of the age estimation conducted through ossification test (Exh. 42), which placed her age between 9-12 years, arguing that it lacked credibility without direct examination by a qualified radiologist.

7. The learned advocate for the appellant further argued that while the FSL report (Exh. 61, 62) detected human semen on the prosecutrix's undergarments mixed with blood (Group O, which matched her blood group), the accused's semen sample was inconclusive and could not be definitively linked to him. He contended that the blood found on the accused's clothes (Group A, which matched his blood group) could have originated from any unrelated source and was not specifically linked to the incident in question. He emphasized that no DNA profiling was conducted by the investigating authorities, which created a significant gap

in the scientific evidence. He further pointed out that the panch witnesses (PW-2 to PW-8, Exhs. 17, 22, 23, 28, 29, 31, 36) had turned completely hostile during the trial proceedings, failing to corroborate the panchnamas including the crime scene panchnama (Exh. 18), seizure of clothes panchnama (Exh. 32), and arrest panchnama (Exh. 25), which indicated biased and faulty investigation by the Investigating Officer (PW-13, Exh. 45). He emphasized the complete lack of corroboration from independent witnesses, noting that there were no eyewitnesses to the incident despite it allegedly occurring near a brick kiln with approximately 200 labourers and regular road traffic in the area. He concluded by highlighting the enmity motive between the accused and the sarpanch arising from electoral rivalry, arguing that the accused was entitled to the benefit of doubt and praying for the appeal to be allowed and the conviction to be set aside.

8. Per contra, the learned Additional Public Prosecutor representing the State strongly supported the impugned judgment and urged for the dismissal of the appeal in its entirety. He submitted with conviction that the prosecutrix's testimony (PW-1, Exh. 11) was natural and consistent on all core facts, including being sent to purchase beedis, being grabbed by accused No. 1 who was a known villager, being dragged to a secluded location, having her mouth gagged, and suffering forcible penetration causing bleeding. He argued that her testimony inspired confidence and should be accepted by the court. He contended that minor embellishments and variations such as the sender's name and whether she rested or fainted were completely immaterial for a rustic child witness and were not fatal to the prosecution case. He emphasized that the FIR was prompt, having been lodged on the same day, and was detailed despite the sarpanch's assistance in drafting, which reflected the trauma experienced by the child. The medical evidence, he argued, fully corroborated the

allegations, with PW-9 noting fresh hymen rupture and vaginal bleeding, while the subsequent report from SSG Hospital confirmed penetrative injury requiring surgical intervention, which would be impossible to result from a mere fall for an 11-year-old child.

9. The learned Additional Public Prosecutor argued that the FSL reports (Exh. 61-62) clearly linked the presence of human semen on the undergarments with blood stains matching the incident timeline, while the accused's clothes bore blood of Group O (matching the prosecutrix's blood group), which remained unexplained by the accused. He contended that the hostility of panch witnesses was a common phenomenon in rural areas due to fear and social pressure, but the investigation remained fair and proper with the FSL officer being called promptly, muddamal being properly sealed, and the chain of custody being maintained intact. He emphasized that the relatives (PW-11 grandmother and PW-12 aunt, Exhs. 43-44) corroborated the post-incident disclosure, bloodied clothes, and immediate action taken by the family. He argued that the investigation was unbiased with multiple investigating officers (PW-13, PW-14, PW-16) being involved in different aspects, and no enmity was shown against the accused by the investigating authorities. He contended that the prosecutrix's inability to identify the accomplice was irrelevant as the charge against accused No. 1 stood alone and independent. In POCSO cases, he argued, a child's testimony, if credible, needs no corroboration.

10. We have heard the learned advocates for the respective parties at length and have carefully perused the impugned judgment as well as the entire record and proceedings, including the depositions of witnesses, documentary evidence and the FSL reports. The principal issue that arises for our consideration is whether the prosecution has proved the charges beyond reasonable doubt against the appellant-accused No. 1 so as to

sustain his conviction under the IPC, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and the POCSO Act, or whether any interference is warranted in appeal.

11. We find that in cases of sexual offences against a child, the testimony of the prosecutrix can be relied upon even without independent corroboration, if it appears truthful and trustworthy. At the same time, this Court must carefully examine the evidence, particularly medical and forensic evidence, to see whether any material inconsistency creates a reasonable doubt.

12. We find that the issue of competency of the victim to depose does not raise any concern. The learned Sessions Court had put preliminary questions to the victim, satisfied itself about her ability to understand and answer, and thereafter recorded her deposition.

13. We further find that the victim is, in a procedural sense, the sole eyewitness, since the incident occurred in a secluded place and no independent eyewitness could be expected. However, the law permits conviction on the testimony of a sole witness, including a sole prosecutrix, if her evidence inspires confidence.

14. On a careful scrutiny of the deposition of the prosecutrix, we find that she has consistently stated that on 01.05.2013 at about 08:00 a.m., when her grandparents were away, Mohanbhai sent her to purchase beedis. While returning near the hill, accused No. 1 caught her hand and dragged her about 50 feet into the jungle area, removed her pajama and also removed his pant and underwear, gagged her mouth, mounted her and committed penetration despite her resistance and cries. She also stated that another man was watching from a distance. She further stated

that after the incident there was vaginal bleeding, her clothes were stained with blood, she rested due to pain and bleeding, then went home and immediately informed her aunt Mamtaben. Thereafter the grandmother was called and they went to the sarpanch and then to the Police Station where FIR (Exh. 8) came to be lodged. She has identified accused No. 1 in Court and stated that she was treated at Godhra and thereafter at Vadodara.

15. It appears from the record that certain minor variations were brought out in cross-examination, such as: in FIR she referred to “dada Maganbhai” instead of Mohanbhai; in the police statement there is a reference to “fainting” whereas in Court she stated she “rested due to pain”; initially a thumb impression was taken and later a signature appears; beedis were not recovered; and she stated she did not know the entire contents of the FIR at the time of recording. We find that these are not material contradictions. They are natural differences expected in the narration of a child witness and do not affect the core case of dragging, gagging, penetration and bleeding.

16. It also transpires from the record that the defense suggestion that the prosecutrix was tutored by the sarpanch due to enmity is only an allegation and was denied by the victim. No reliable material has been placed to establish such enmity or to show that it resulted in a false case.

17. We also find that there is no reason on record to believe that the victim would falsely implicate the accused. In offences of this nature, it is unlikely that a victim would make a false allegation and face social stigma and trauma without the incident having occurred.

18. The version of the prosecutrix is supported by the immediate

disclosure and the evidence of family members. PW-11 (grandmother) has stated that the prosecutrix returned home crying with blood on her clothes and disclosed that she was raped by Bhadabhai (accused No. 1) along with an unknown man, and that they immediately went to the sarpanch and thereafter to the Police Station. PW-12 (aunt) has stated that the prosecutrix returned in a distressed condition with blood on her clothes and legs, she called the grandmother, and thereafter the complaint was written and they went to the Police Station. We find that although PW-12 is not an eyewitness, her evidence about the victim's immediate condition and disclosure is natural and supports the prosecution version.

19. The medical evidence strongly supports the allegation of penetrative sexual assault. PW-9 examined the prosecutrix on 01.05.2013 and found her conscious and coherent. Though no external injuries were noted on the waist, chest, thighs, face or breasts, he found the hymen ruptured and active vaginal bleeding. Her blood group was O positive and she had not attained menarche. She was referred to Vadodara. PW-10 examined accused No. 1 (aged 32 years), found no injuries on him, found him potent, and recorded his blood group as A positive.

20. It also appears from the record that the hospital record from SSG Hospital shows that the prosecutrix was admitted from 02.05.2013 to 07.05.2013 and underwent surgical treatment. The operative findings show a 3-4 cm lateral vaginal wall tear requiring stitches and removal of about 100 gm of blood clots. Ossification test assessed her age between 9-12 years. We find that the defense suggestion of injury by fall does not explain such a specific internal injury requiring surgery.

21. The forensic evidence further supports the prosecution case. The scene report (Exh. 46) notes blood-like fluid at the spot. The FSL report

(Exh. 61) shows that the soil from the scene contained human blood of Group O. The prosecutrix's clothes, including salwar, kameez, dupatta and underwear, contained blood (Group O) and semen mixed together. The accused's pant and T-shirt contained blood of Group A and other stains. The serology report (Exh. 62) confirms that the semen was of human origin. Though semen matching to the accused was inconclusive, we find that the presence of human semen on the prosecutrix's garments and the blood grouping results provide strong support to the prosecution case when read with the other evidence.

22. The contention that the blood could be from unrelated sources is without merit, as no plausible explanation has been offered by the accused. The chain of custody is supported by the evidence of PW-13 and the sealed muddamal. The inconclusive semen matching does not create a reasonable doubt when the total scientific and medical evidence is considered together.

23. It appears from the record that PW-13 has explained the investigation steps, including registration of FIR, scene visit with FSL officer and panchs, seizure of blood-stained soil and clothes, arrest of accused No. 1, preparation of panchnamas and sending samples for analysis. PW-14 and PW-16 have spoken about subsequent steps including the caste certificate (Exh. 50), addition of Atrocities Act provisions and dispatch of muddamal with proper documentation (Exh. 57-58). We find that hostility of panch witnesses (PW-2 to PW-8) does not by itself break the prosecution case when the official evidence and documents remain reliable. No material is shown to establish bias or malafides in investigation.

24. It is an opt-reiterated dictum of law that in cases of rape, the

testimony of the prosecutrix alone may be sufficient and sole evidence of the victim, when cogent and consistent, could be properly used to arrive at a finding of the guilt. In ***State of Himachal Pradesh vs. Manga Singh, (2019) 16 SCC 759***, this Court in terms stated that conviction can be rested on the testimony of the prosecutrix alone.

*“The conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence. The conviction can be based solely on the solitary evidence of the prosecutrix and no corroboration be required unless there are compelling reasons which necessitate the courts to insist for corroboration of her statement. Corroboration of the testimony of the prosecutrix is not a requirement of law, but a guidance of prudence under the given facts and circumstances. Minor contractions or small discrepancies should not be a ground for throwing the evidence of the prosecutrix.”*

25. It was further asserted that corroboration is not an essential requirement for conviction in the cases of rape. It is well settled by a catena of decisions of the Supreme Court that corroboration is not a sine qua non for conviction in a rape case. If the evidence of the victim does not suffer from any basic infirmity and the "probabilities factor" does not render it unworthy of credence. As a general rule, there is no reason to insist on corroboration except from medical evidence. However, having regard to the circumstances of the case, medical evidence may not be available. In such cases, solitary testimony of the prosecutrix would be sufficient to base the conviction, if it inspires the confidence of the court.

26. From a recent decision in ***Raju alias Umakant vs. State of Madhya Pradesh, (2025 SCC OnLine SC 997)***, following observations could be noticed:

*“.....a woman or a girl subjected to sexual assault is not an accomplice but a victim of another person's lust and it will be improper and undesirable to test her evidence with suspicion. All that the law mandates is that the Court should be alive to and conscious of the fact that it is dealing with the evidence of a person who is interested in the outcome of charge levelled by her and if after keeping that aspect in mind if the Court is thereafter satisfied that the evidence is trustworthy, there is nothing that can stop the Court from acting on the sole testimony of the prosecutrix. [See State of Rajasthan v. N.K. the Accused, (2000) 5 SCC 30, Rameshwar v. State of Rajasthan, 1951 SCC 1213, State of Maharashtra v. Chandraprakash Kewal Chand Jain, (1990) 1 SCC 550, State of Punjab v. Gurmit Singh, (1996) 2 SCC 384]”*

27. The sensitive approach and greater inclination to rely on the creditworthy evidence of the victim is guided by the aspect as observed in ***Bharwada Bhoginbhai Hirjibhai vs. State of Gujarat, [(1983) 3 SCC 217]*** it was observed thus:

*“In the Indian setting, refusal to act on the testimony of a victim of sexual assault in the absence of corroboration as a rule, is adding insult to injury. Why should the evidence of the girl or the woman who complains of rape or sexual molestation be viewed with the aid of spectacles fitted with lenses tinged with doubt, disbelief or suspicion?”*

28. On overall consideration, we find that the testimony of the prosecutrix inspires confidence, is not shaken by any material contradiction, and is supported by prompt disclosure, medical evidence and FSL evidence. We find that the prosecution has proved the guilt of accused No. 1 beyond reasonable doubt. Accordingly, no interference is called for in appeal.

29. In light of the above legal position and for the reasons recorded in the foregoing paragraphs, the present appeal fails and is accordingly

dismissed. In view of the dismissal of the present appeal, the connected temporary bail application becomes infructuous and the same is also disposed of accordingly. Records and Proceedings, if any, be remitted to the Court concerned forthwith.

**(ILESH J. VORA, J)**

**(R. T. VACHHANI, J)**

MVP