



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 20th January, 2026

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+ CRL.A. 601/2025 & CRL.M.(BAIL) 2499/2025

MANTRAM @ MANTRA @ SONU

.....Appellant

Through: Ms. Supriya Juneja, Ms. Shreya
Lamba and Mr. Akhil Sharma
Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Ritesh Kumar Bahri (APP for
State), Mr. Lalit Luthra and Mr. Vinesh
Kumar, Advocates.
Insp. Yogesh Kumar, P.S. Govind Puri,
S.I. Lokesh Kumar, P.S. Govind Puri.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. The present appeal has been filed by the Appellant under Section 415 (2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter*, 'BNSS') assailing the impugned judgment dated 21st March, 2025 (*hereinafter*, 'impugned order') and order on sentence dated 25th March, 2025, passed by Id. ASJ-06 (POCSO Act), South East, Saket Court, Delhi in *Sessions Case No.290/2017*.

2. The present case arises out of **FIR No.101/2017** registered at P.S. Govind Puri dated 14th March, 2017 under Sections 376/366 of the Indian Penal Code, 1860 (*hereinafter*, 'IPC') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (*hereinafter*, 'POCSO Act'). The Appellant herein has been charged with the offences of kidnapping, rape,



criminal intimidation, and aggravated penetrative sexual assault in respect of the Prosecutrix, who was a minor at the relevant time. The allegations include the insertion of his finger into her vagina.

3. By the impugned judgment of conviction and order of sentence, the Appellant was sentenced to rigorous imprisonment for life with fine under Section 6 POCSO, rigorous imprisonment for 5 years under Section 363 IPC along with fine and 2 years rigorous imprisonment under Section 506 IPC, with all sentences to run concurrently, and was directed to pay ₹2,00,000/- as compensation to the Prosecutrix. The Id. Trial Court further awarded enhanced compensation of ₹12,00,000/- under the Delhi Victim Compensation Scheme, 2018, to be kept in FDR till the Prosecutrix attains majority, subject to adjustment of any interim compensation. The relevant portion of the order on sentence is reproduced hereinbelow:

“4. I have heard the arguments and have gone through the records.

5. In the present case, the convict was unknown to the victim. On the fateful evening of 13.03.2017, when the victim was playing alone in the park, convict kidnapped victim and took her to the place of incident. He inserted his fingers in the urinating part of the victim. He left the victim at fish market and victim returned to her house on her own. At that time, she was bleeding from her perineum. She was immediately taken to the hospital and was operated for post vaginal injuries. It is clear from the medical documents of the victim that a 3rd degree perineal tear was found in the area between vaginal opening and anus. The 3rd degree tear is considered to be severe as it involves damage to the perineum that extends into the anal sphincter muscles and requires surgical repair.

6. The victim was just age about 6 years at the time



of offence. She had gone to the nearby park of her residence to play. However, she was kidnapped and was subjected to the most horrifying crime. The severity of the offence can be measured from the injuries on her perineum region. At the age of six years, without any fault of her, she had to undergo pediatric surgery for repair of her perineum region. She remained admitted in the hospital for around 15 days. The physical pain and the mental trauma that a small child of six years of age had to undergo cannot be measured by any yard stick. The victim was not even knowing as per what had happened with her and she explained the incident in her own language by stating "Uncle ne ungli se khoon nikala meri toilet wali jagah se". The child sexual abuse can have wide ranging and serious consequences. It affects the psychological and physical well being of the victim, which hounds her throughout her life. The sexual abuse creates feeling of fear in the child. The child faces immense trauma and more often, such trauma is not even visible.

7. Considering the severity of the offence, the manner in which it was committed and the injuries suffered by the victim due to the incident, the convict does not deserves any leniency.

8. The convict has been convicted for the offence punishable under 363 IPC, 506 IPC, 376(2)(i) IPC and Section 6 of the POCSO Act. Therefore, Section 42 of the POCSO Act would be applicable, which provides for alternative punishment. As per section 42 of the POCSO Act, where an act or omission constitute an offence punishable under the POCSO Act and also under any other law for the time being in force, then, notwithstanding anything contained in any law for the time being in force, the offender found guilty of such offence shall be liable to punishment only under such law or POCSO Act as provides for punishment, which is greater in degree. Therefore, the convict is to be sentenced either for offence under Section 376(2)(i) IPC or Section 6 of



the POCSO Act, which is greater in degree in terms of sentence.

9. Further, Section 6 of the POCSO Act was amended by Protection of Children from Sexual Offence (Amendment) Act, 2019, w.e.f. 16.08.2019. The offence in the present case was committed on 13.03.2017 and therefore, the punishment prescribed for Section 6 of the POCSO Act prior to the Amendment of 2019 would be applicable. Prior to the Amendment, the punishment provided for aggravated sexual assault was rigorous imprisonment for a term which shall not be less than 10 years but which may extend for imprisonment for life and with fine. Section 376(2)(i) IPC, prior to the criminal law (Amendment) Act, 2018 provided for punishment with rigorous imprisonment for a term which shall not be less than 10 years, but which may extend to imprisonment for life and shall also be liable to fine. Therefore, the same punishment has been prescribed under Section 376(2)(i) IPC and Section 6 of the POCSO Act. By virtue of Section 42 of the POCSO Act, the convict is to be sentenced in either of the above Sections.

10. On the basis of overall facts and circumstances, the convict **Mantram @ Mantra @ Sonu** is sentenced to **rigorous imprisonment for life, which shall mean imprisonment for the remainder of natural life of the convict for the offence punishable under Section 6 of the POCSO Act and a fine of Rs. 30,000/-**. In default of the payment of fine, the convict is to undergo SI for six month.

The Convict **Mantram @ Mantra @ Sonu** is also sentenced to **Rigorous Imprisonment** for five years for the offence punishable under Section 363 IPC and a fine of Rs. 5,000/- and in default of the payment of fine, the convict is to undergo SI for 15 days.

The Convict **Mantram @ Mantra @ Sonu** is also sentenced to **Rigorous Imprisonment** for two years for the offence punishable under Section 506 IPC.



11. The convict is also directed to pay compensation of Rs. 2,00,000/ to the victim.

12. **Benefit of Section 428 CrPC be also given to the convict.**

13. **All the sentence shall run concurrently.**

14. As regard **final compensation** to the victim, the convict had committed aggravated penetrative sexual assault with victim 'T'. Under clause 9 Part II of Delhi Victim Compensation Scheme 2018, it is provided that in the case of a minor victim, the compensation amount mentioned in the schedule has to be considered 50% higher. The case of 'T' is covered under Entry 3 (for rape) of the schedule. Under entry 3 of the schedule, compensation for rape requiring rehabilitation is Rs. 4 Lacs and the maximum compensation is Rs. 7 Lacs. Therefore, the minimum compensation under entry 3 of the schedule works out to be 6 Lacs and maximum compensation works out to be 10.5 Lacs.

15. Therefore, considering the entire facts and circumstances, victim T is awarded **final compensation of Rs. 12.00.000/- (Twelve Lacs only)** each to be paid under the Delhi Victim Compensation Scheme 2018 r/w Rule 33(8) POCSO Act 2012 r/w Section 395/396 of BNSS. Any interim compensation awarded to the victim is to be adjusted in the final compensation. The compensation granted to the victim shall be kept in recurring FDR and the same shall be released to the victim on attaining the age of majority.”

Facts

4. On 13th March, 2017, the victim (hereinafter ‘Prosecutrix’), aged about six years at the time of incident, went missing at around 6:30 PM. She returned to her house on her own and was found bleeding continuously from her private part. Her mother immediately took her to P.S. Govind Puri, whereafter she was taken to the hospital on 13th March 2017 itself and was medically examined



vide MLC No. 2189/2017, which revealed internal injuries on her private part and confirmed sexual assault. The Prosecutrix was admitted in the hospital and on 14th March, 2017, she was operated for post vaginal injuries.

5. The Prosecutrix informed the police that on 13th March, 2017 at about 6:30 PM, she was playing alone in a park when an unknown man forcibly took her in a white car, in which one driver was also present, brought her to his house and took out her panty and inserted his finger in her urinating part after which she started bleeding. He disclosed his name as Mantra to the Prosecutrix and threatened her not to disclose the incident to anyone. The Appellant, thereafter left her near the fish market, after which she returned home on foot.

6. During investigation, the police seized CCTV footage from Camera No. 8 installed at Pannalal Shop and Camera No. 3 installed at the Church, Ravi Das Marg. In camera no. 8, the Appellant could be seen moving with the Prosecutrix between 21:39:13 PM to 21:39:18 PM on 13th March 2017, and in camera no. 3, the Appellant was seen moving alone between 21:21:51 PM to 21:21:55 PM on 13th March 2017. As per the Investigating officer, when timings of both the cameras were matched, there was a noted time difference of 18-19 minutes between the two.

7. The statement of the Prosecutrix was recorded u/s 164 Code of Criminal Procedure (*hereinafter* 'CrPC'), and the place of incident was identified by the Prosecutrix, pursuant to which a site plan was prepared. On the basis of CCTV footage, photograph of the Appellant was developed and local inquiries were conducted, after which the Appellant was arrested on 8th April, 2017 and was medically examined thereafter. An application for Test Identification Parade (*herein after* 'TIP') of the Appellant was moved before the Id. Trial Court, however, the Appellant refused to participate in the TIP proceedings.

8. The exhibits of the Appellant and the Prosecutrix collected during



medical examination, as well as the DVRs containing the CCTV footages, were sent to FSL for examination. Statements of other witnesses were recorded during investigation, and upon completion, a chargesheet was filed against Appellant under Sections 366/376 IPC and Section 6 of POCSO Act. Subsequently, two supplementary charge-sheets were filed upon receipt of the FSL reports.

9. *Vide* order dated 23rd August 2018, charges under Sections 363, 376(2)(i), 506 IPC and Section 6 of the POCSO Act were framed against the Appellant to which he pleaded not guilty and claimed trial.

Proceedings before the Trial Court

10. During the course of trial, the Prosecution examined 18 witnesses to establish its case. PW-3, the Prosecutrix Ms. 'T', deposed that on 13th March 2017, while playing in the park near her house, an uncle forcibly took her in a white car to a house where he removed her panty and inserted his finger into her private part, causing bleeding, and thereafter threatened her to not disclose the incident to anyone, before dropping her near the fish market. PW-4, Sh. 'AM' (father) and PW-6, Smt. B (mother) corroborated that the Prosecutrix returned home bleeding from her private parts and disclosed the incident, whereupon she was immediately taken to the police station and hospital. PW-1, Dr. Divya, and PW-2, Dr. Hemant Kumar Kanwar, deposed regarding the initial medical examination establishing that the Prosecutrix was examined without delay and findings were suggestive of sexual assault committed upon the Prosecutrix. PW-5, Dr. Kanika Sharma, and PW-14, Dr. Garima, proved medical documents relating to serious vaginal injuries requiring surgical intervention on 14th March 2017. PW-16, WSI Nirmala Singh, the Investigating Officer, deposed regarding receipt of information, recording of



statements, seizure of CCTV footage, arrest of the Appellant on 8th April, 2017, his refusal to join TIP proceedings, and filing of charge-sheet.

11. PW-7, Sh. Sonu Gupta (employer of Appellant), and PW-8, Smt. Usha Rani, supported the Prosecution regarding investigation and surrounding circumstances. PW-9, Sh. Rev. Koshy Baby, and PW-15, Mr. Diwakar Kumar, provided CCTV footage to the police. PW-10 to PW-13 were formal police witnesses who deposed regarding procedural aspects and seizure of exhibits. PW-17, Sh. Subodh Saini, prepared the cyber forensic report and examined the CCTV footage. PW-18, Mr. Manish Gupta, proved the DNA report dated 4th December 2017 establishing that no DNA of the Appellant was detected on the biological samples of the Prosecutrix.

12. After completion of the prosecution evidence, the Appellant was examined u/s 313 CrPC, wherein he denied the allegations and expressed ignorance with respect to commission of the offence with the Prosecutrix. The Appellant asserted that Sonu Gupta falsely identified him as “Mantram.”

13. The Defence examined three witnesses. DW-1, the Appellant himself, deposed that his real name is Pati Ram and not Mantram/Mantra/Sonu as alleged by the Prosecution. He stated that he had worked for about four days with Sonu Gupta and Mukesh Gupta, who withheld his salary of fifteen days and, upon his protest, threatened that they would not allow him to work in the area. He further stated that Sonu Gupta and Mukesh Gupta had links with police officials and, due to previous enmity over work and salary disputes, falsely implicated him in the present case by wrongly identifying him as "Mantram" before the police. DW-2, Ms. Munia, wife of the Appellant, and DW-3, Sh. Naseem Ahmad, Gram Pradhan, supported the version of DW-1 and corroborated that the Appellant is known as Pati Ram and not by the name alleged by the Prosecution, and that he was falsely implicated due to disputes



with Sonu Gupta and Mukesh Gupta.

14. The Prosecution contended that the prosecution had proved its case beyond reasonable doubt. It was submitted that the Prosecutrix consistently identified the Appellant in Court and that the Appellant had disclosed his name as "Mantram" to the prosecutrix. The Prosecution relied heavily upon the medical evidence showing severe post-vaginal injuries requiring surgical intervention, which corroborated the commission of sexual assault upon the Prosecutrix. It was further argued that the Appellant failed to prove his claim that his actual name was "Patiram" and that the defence witnesses were unreliable. The Prosecution drew attention to the fact that the Appellant himself had signed court documents in Hindi as "Mantram". Relying upon the statutory presumptions under Sections 29 and 30 of the POCSO Act, the Prosecution urged the Court to convict the Appellant.

15. Ld. Counsel appearing for the Appellant submitted that the Prosecution case suffered from serious lacunae and material contradictions. It was submitted that although the Prosecutrix alleged abduction in a white car, no such vehicle was recovered during investigation and the alleged driver was neither identified nor examined. It was further submitted that the CCTV footage relied upon by the Prosecution was either blurred or missing for the relevant time period, thereby failing to establish the presence of the Appellant at the scene of crime. It was further submitted that the Prosecutrix's identification of the Appellant directly in the Court was wholly tainted, as the Appellant had allegedly been shown to her at the police station prior to trial, and consequently refused to participate in the TIP. It was further submitted that the Appellant had been falsely implicated at the instance of Sonu Gupta and Mukesh Gupta due to prior disputes relating to work and salary. Pressing upon the plea of mistaken identity, it was submitted that the Appellant's real name



was Patiram and not Mantram as alleged by the Prosecution, and that he stood wrongly convicted by the Id. trial Court.

16. On the strength of the evidence which was led, the Id. Trial Court came to the conclusion that the prosecution established that the Prosecutrix, aged about six years and eleven months on 13th March 2017, was playing alone in the park when the Appellant kidnapped her in a white car and took her to a makeshift room near Nehru Place where he sexually assaulted her. The Prosecutrix consistently stated in her complaint Ex. PW1/A, statement under Section 164 CrPC Ex. PW3/C, and deposition as PW-3 that the assailant disclosed his name as "Mantra" and inserted his finger into her vagina, causing severe bleeding. Her testimony was corroborated by PW-4 (father) and PW-6 (mother) who deposed that the Prosecutrix returned home at about 10:00 PM bleeding from her private part and disclosed the incident. The medical evidence established that the Prosecutrix suffered Grade-3 perineal tear requiring surgical reconstruction on 14th March 2017, clearly corroborating sexual assault. The Prosecutrix identified the place of incident on 8th April 2017 and site plan Ex. PW16/C was prepared at her instance. Most importantly, she identified the Appellant in court through video link and reacted with visible fear by hiding her face in the lap of the support person.

17. The defence taken by the Appellant of mistaken identity was rejected. PW-7, Sonu Gupta, deposed that the Appellant worked for him for four to five days in March 2017 and disclosed his name as "Sonu", and significantly, the Defence did not cross-examine him. The Appellant refused to participate in the TIP on 15th April 2017 claiming he was already shown to the Prosecutrix, but produced no evidence to support this claim, warranting adverse inference. DW-2 and DW-3 examined by the Defence failed to prove that the Appellant's name was "Patiram". Most importantly, the Appellant's true identity was revealed by



his own signatures as "Mantram" in Hindi on the charge dated 23rd August 2018, on all pages of his statement under Section 313 CrPC recorded on 11th November 2024, and on his examination as DW-1. The Prosecutrix's identification of the Appellant in court, his refusal to join TIP, and his own signatures as "Mantram" established beyond reasonable doubt that he was the perpetrator who kidnapped and sexually assaulted the Prosecutrix on 13th March 2017, thereby attracting the presumptions under Sections 29 and 30 of the POCSO Act.

18. The Id. Trial Court found that the Appellant failed to discharge his burden to show that he had been falsely implicated and to rebut the presumption. Accordingly, on the basis of the evidence on record, the Id. Trial Court held that the prosecution proved the case against the Appellant beyond reasonable doubt and convicted the Appellant Mantra @ Mantram @ Sonu for the offences punishable under Sections 363 IPC, 506 IPC, 376(2)(i) IPC and Section 6 of the POCSO Act, 2012.

Submissions on behalf of the Appellant

19. The submission on behalf of the Appellant by the Id. Counsel for the Appellant is that the MLC, being the first document recording the incident, states "one person male- unknown" and does not mention the Appellant's name. PW-4, the father of the Prosecutrix, narrated to the hospital that his daughter was kidnapped by an "unknown man". This establishes that no name was disclosed by the Prosecutrix at the first instance when she was taken to the hospital. However, when the FIR was registered just a few hours later, suddenly the name "Mantram" appeared without any explanation, raising serious doubts about the genuineness of the prosecution story.

20. Further, the Id. counsel for the Appellant submits that the CCTV footage relied upon by the Prosecution is completely blurred and inconclusive. The Id.



Trial Court itself acknowledged that the CCTV footage cannot be relied upon for identification purposes, observing that the images are blurred and the footage of the relevant time is missing. PW-3, the Prosecutrix, identified the Appellant in court only after she was taken on 8th April 2017 for site plan preparation along with her grandfather, as deposed by PW-16, the Investigating Officer. The Appellant was arrested on the same day immediately after this exercise. Significantly, the grandfather who accompanied PW-3 on 8th April 2017 was never examined by the prosecution. The Id. Counsel for the Appellant further submits that PW-6, the mother of the Prosecutrix, stated in her testimony that she had not seen the Appellant on the day of the incident or thereafter and cannot identify him. The non-examination of the grandfather raises reasonable apprehension that the Prosecutrix was shown to the Appellant prior to identification in court, thereby tainting the entire identification process.

21. It is further submitted by the Id. Counsel for the Appellant that the Appellant examined himself as DW-1 and deposed that his name is Pati Ram and not Mantram, and that PW-7, Sh. Sonu Gupta, and Mukesh Gupta falsely implicated him due to employment disputes over withheld salary and their links with police officials. DW-2, Ms. Munia, the wife of the appellant, produced Aadhaar Cards which clearly show "Munia, wife of Pati Ram", establishing that the Appellant's name is Pati Ram. The Id. Trial Court failed to properly examine these documents and erroneously discarded them merely on the ground that the wife admitted in cross-examination that the husband's name is not mentioned in her Aadhaar Card, without appreciating that DW-2 is illiterate and the document itself bears the name "wife of Pati Ram". DW-3, Sh. Naseem Ahmad, the Gram Pradhan, produced certified copy of the family members register prepared by the Panchayat Secretary wherein entry at Sr. No. 13 is of Patiram and entries at Sr. No. 14 to 19 are of family members of Patiram, along



with the voter list. The Id. Trial Court wrongly held that the Appellant signed documents as "Mantram" without considering the possibility of illiteracy, coercion or confusion during trial proceedings.

22. The Id. Counsel for the Appellant further submits that there are material contradictions in the prosecution case. PW-7, Sh. Sonu Gupta, deposed that the Appellant left work on 11th March 2017, which was prior to Holi. However, PW-10 stated that PW-7 informed the police that the Appellant had left the job 3-4 days prior to 8th April 2017, demonstrating inconsistencies in the Prosecution version. The Id. Trial Court failed to appreciate these contradictions and wrongly relied on the testimony of PW-7 who had falsely implicated the Appellant due to employment disputes.

23. It is further submitted by the Id. Counsel for the Appellant that the Appellant is about 40 years of age and has undergone incarceration of approximately 9 years and 3 months with exemplary conduct and nothing adverse recorded against him. The Appellant was granted interim bail on 6th September 2019 for one month and six days due to the demise of his mother, which he did not misuse and duly surrendered, demonstrating that he does not flee from justice. She further submits that the Appellant's family consists of an aged bedridden father above 80 years who is incapable of work, a critically ill wife suffering from persistent nasal bleeding and earning merely ₹250 per day as a farm labourer, and 5 minor children who have been forced to discontinue schooling due to financial hardship. The continued detention of the Appellant gravely prejudices the survival of his family which is entirely dependent on him.

24. On the strength of the aforesaid submissions, Id. Counsel for the Appellant urged this Court to suspend the sentence and grant bail to the Appellant, and to set aside the conviction and acquit the Appellant.



Submissions on behalf of the State

25. *Per contra*, Mr. Bahri, the Id. APP for State submits that PW-3, the Prosecutrix, who was merely six years old at the time of the incident, has remained consistent throughout in her testimony. She deposed that on 13th March 2017 at around 6:00 PM, she went to the nearby park along with her brother and sister, and the Appellant Mantra came and told her that he is her father's friend. When she refused and did not believe him, the Appellant gagged her mouth with his hand and forcibly took her in a white tempo where another person was present and was driving the vehicle. The Appellant took her to his house where he removed her clothes and inserted his finger into her private part, and thereafter threatened to kill her with a knife if she disclosed the incident to anybody. A six-year-old child has no false or malafide motive or malice to wrongly accuse someone, and her testimony deserves reliance.

26. Further, Mr. Bahri submits that PW-3 identified the Appellant in court through video link. Upon seeing the Appellant, she identified him and immediately concealed her face in the lap of the support person, demonstrating visible fear and distress. This spontaneous reaction establishes beyond doubt that she was in fear of the Appellant and that the Appellant is the perpetrator who committed the heinous offence against her.

27. It is further submitted by Mr. Bahri that the Appellant has consistently signed on all court documents as "Mantram" in Hindi, thereby revealing his true identity. He signed the charge as "Mantram", signed all pages of his statement under Section 313 CrPC as "Mantram", and even when examined as DW-1 wherein he claimed that his name is Patiram and not Mantram, he signed his own evidence as "Mantram". This conduct establishes beyond reasonable doubt that his true name is Mantram, as rightly observed by the Id. Trial Court in its judgment.



28. He further submits that PW-7, Sh. Sonu Gupta, identified the Appellant from the photograph shown by the police and deposed that the Appellant worked at his shop for 4-5 days in March 2017 during Holi time and disclosed his name as "Sonu". The acquaintance between the Appellant and PW-7 has not been disputed by the Defence.

29. Further, he submits that the Appellant accompanied the Prosecutrix, as visible in the CCTV footage has not been disputed by the Defence. The Appellant has completely failed to explain his presence with the Prosecutrix as is visible from the footage. The Id. Trial Court overlooked this vital fact that the onus of explaining his presence with the Prosecutrix in the footage was on the Appellant, which he has not discharged. This non-explanation is an additional ground which confirms the conviction of the Appellant.

30. It is further submitted by Mr. Bahri that the Prosecution case is further corroborated by the fact that PW-3 identified the place of incident on 8th April 2017 and the site plan was prepared at her instance. DW-2, Ms. Munia, who claimed to be the wife of the Appellant, produced Aadhaar Cards to prove that the Appellant's name is Patiram, however these documents had no spousal details whatsoever proving her relationship with the Appellant, thereby demonstrating that the Appellant attempted to present false evidence before the Court through DW-2. The testimony of DW-3 has been rightly discarded as inadmissible by the Id. Trial Court since he was unable to prove the documents relied upon by him.

31. He further submits that PW-1, Dr. Divya, PW-2, Dr. Hemant Kumar Kanwar, PW-5, Dr. Kanika Sharma, and PW-14, Dr. Garima, proved through medical evidence that the prosecutrix, a tender child of six years, suffered severe Grade-3 perineal tear involving damage to the anal sphincter muscles, requiring surgical reconstruction on 14th March, 2017. She remained admitted



in the hospital for a substantial period.

32. On the strength of these submissions, it is submitted by Mr. Bahri that the incident is gruesome and heinous in nature and there are no mitigating circumstances warranting suspension of sentence or lenience and that the impugned judgment passed by the Id. Trial Court does not warrant any interference.

Analysis and Findings

33. The Court has considered the matter.

34. The principal issue that arises for consideration in the present appeal is the identity of the Appellant, which is also the sole question raised by the Defence. No other factum of the case has been disputed by the Defence.

35. On the issue of identity of the Appellant, this Court notes that the assailant was unknown to the Prosecutrix prior to the incident. PW-3, the Prosecutrix, consistently stated throughout her testimony that the assailant disclosed his name as "Mantra". This Court observes that the correctness of the name is immaterial, as identity is established by facial recognition and not by mere nomenclature. The Prosecutrix identified the Appellant in Court through video link without hesitation and exhibited visible fear upon seeing him by concealing her face in the lap of the support person, which is a natural and spontaneous reaction establishing that the Appellant is the perpetrator.

36. The submission of the Id. counsel for the Appellant that the Prosecutrix was shown to the Appellant prior to court identification is not supported by any material on record. The Id. Trial Court rightly drew an adverse inference against the Appellant for refusing to participate in TIP proceedings on 15th April 2017, as there was no evidence to substantiate his claim that he had already been shown to the Prosecutrix at the police station. PW-3, a six-year-old child, has no false or malafide motive or malice to wrongly accuse



someone, and her testimony has remained consistent throughout.

37. The prosecution case is further corroborated by the fact wherein the Prosecutrix identified the place of incident on 8th April 2017 and the site plan was prepared at her instance. The medical evidence established through PW-1, PW-2, PW-5 and PW-14 proves that the Prosecutrix suffered severe Grade-3 perineal tear requiring surgical reconstruction, clearly corroborating the occurrence of sexual assault upon the Prosecutrix.

38. This Court has carefully examined the Defence evidence pertaining to identity. Though the name of the accused as "Mantra", "Mantram" or "Patiram" is irrelevant in view of the fact that the victim has identified him in court. DW-2, Ms. Munia, claimed to be the wife of the Appellant and produced Aadhaar Cards to prove that the Appellant's name is Patiram. However, in cross-examination, DW-2 admitted that her Aadhaar Card does not mention her husband's name, the Aadhaar Cards of her children do not mention the name of father, and she has no proof that she is the wife of the Appellant. Therefore, DW-2 failed to prove the relationship or that the Appellant's name was Patiram. DW-3, Sh. Naseem Ahmad, Gram Pradhaan, the testimony has been rightly discarded by the Id. Trial Court as unreliable and inadmissible. In cross-examination, DW-3 admitted that the stamp on the family register is of Gram Vikas Adhikari and not of Panchayat Secretary, and that he has no proof that he is Gram Pradhaan. The voter list relates to the year 2024, years after the incident in 2017, was not properly certified under Section 65B of the Indian Evidence Act, 1872 (*hereinafter 'Evidence Act'*) and does not prove that the Appellant was known by the name "Patiram" at the time of the offence.

39. Most significantly, the Appellant, despite claiming his name to be Patiram, signed all court documents including the charge, the statement under Section 313 CrPC, and his own deposition as DW-1, in Hindi as "Mantram".



This conduct clearly establishes his true identity and falsifies his defence of mistaken identity.

40. With regard to the CCTV footage, while the Id. Trial Court observed that the footage was blurred and the footage of the relevant time was missing, this Court notes that the factum of the Appellant accompanying the Prosecutrix as visible in the CCTV footage and the same has been disputed by the Defence. It is clear from the deposition of PW-13 and PW-16. The Appellant has completely failed to explain his presence with the Prosecutrix as visible from the footage. The Id. Trial Court overlooked this fact that the onus of explaining his presence with the Prosecutrix in the footage was on the Appellant, which he has not discharged. This non-explanation is an additional ground which confirms the conviction of the Appellant. The relevant portion of the statements of the PW-13, PW-16 and the impugned judgment are as under:

***“SC No.290/2017
STATE Vs. MANTRAM @ MANTRA @ SONU
FIR No.101/2017
PS Govind Puri
08.06.2022***

PW-13

***Statement of Head Constable Shish Ram,
No.325/West, AHTU Branch, West District, Delhi.
On SA***

On 17.03.2017, I was posted in PS Govindpuri as constable. On that day, I was joined in the investigation in the present case by SI Nirmala and we reached Navjeevan Camp, Govindpuri, New Delhi at the godown of bananas of Sh. Panna Lai, where one Diwakar met us. IO inquired from him regarding the cameras installed there and if the same were working and in the camera no. 8 CCTV footage were found wherein one boy was seeing with a small girl of 5-6 years of age, going with her at about at 09:39 PM. Thereafter, we went a



Carmel Community Church, where the CCTV footage were also checked and the same boy was found in the CCTV footage walking alone at about 09:21 PM. IO had collected the CCTV footage of both the places in the pen drive and the hard disk of the system were also seized by the IO. There was a difference of 18-19 minutes between the CCTV footage of Church and the godown of Panna Lal.” IO had collected certificate u/s 65-B regarding both the CCTV Footage collected. Thereafter, the IO had developed hard copies of the relevant photos of the CCTV footage by which we tried to find the suspect in the area by examining various Gramin Sewa drivers but no suspect could be ascertained. IO had prepared seizure memo for seizing the CCTV footage of the Church camera which I have signed. Witness has identified his signature at point B on the seizure memo already Ex.PW9/A. IO had prepared seizure memo for seizing the CCTV footage of the godown of Panna Lal which I have signed. Witness has identified his signature at point A on the seizure memo already Ex.PW13/A.

Thereafter, again on the instructions of W/SI Nirmala, on 27.03.2017, I had taken 11 sealed pullandas along with sample seal from Malkhana vide RC No. 47/21/17 and deposited all the exhibits in the office of FSL, Rohini. I obtained an acknowledgement regarding receipt of exhibits which I gave to the MHCM on my return in PS. Copy of the RC is Ex.PW13/B bears my signature at point A and copy of acknowledgement is Ex.PW13/C bears my signature at point A.

XXXXX by Mr. Brijendra Kulshrestha, Ld. Counsel for accused.

It is wrong to suggest that I had not tried to search the suspect through CCTV on the date of incident. It is further wrong to suggest that I simply signed the document at the instance of the IO in police station. It is correct that no suspect could be found by the IO till I remained in the investigation of this case. I



remained in the investigation of this case on 17.03.2017 and 27.03.2017.”

SC No. 290/17

STATE Vs. Mantram @ Mantra @ Sonu

RR No. 101/17

PS Govind Puri

03.11.2022

PW-16

Statement of WSI Nirmala Singh, D-5477, Legal Division, Police Headquarters, Jai Singh Road, New Delhi.

On SA

xxx

On 17.03.2017, I along with Ct. Sheeshram went in the area for search of the accused and we examined the CCTV footage of the camera installed near Pana Lal Shop near Navjeevan Camp. In camera No.8, CCTV footage of the time 09.39 pm of 13.03.2017, one person was seen coming with the victim Ms. T. I took the footage copy in a pan drive and also seized the hard disk of the CCTV camera and seizure memo already Ex.PW13/A was prepared which bears my signature at point C. I also obtained a certificate under section 65B Indian Evidence Act from the CCTV owner Sh. Divakar which is Ex.PW15/A. Thereafter, I along with Ct. Sheeshram reached in the area of Govind Puri Extension for examining further CCTV footages and we reached near Church where one CCTV camera was also installed. I met the father of the church and on examination of the CCTV footage it was found that one person was who was similar as seen in the footage at the shop of Panna Lal and going towards Kalkaji Extension. I took the copy of CCTV footage in a Pen Drive and I also seized the hard disk of the camera and seizure memo already Ex.PW9/A was prepared which bears my signature at point C. I also obtained a certificate under section 65B Indian Evidence Act from the father



Rev. Koshy. Baby of the Church which is already Ex.PW9/B.

On examination of the CCTV footage of the church it was found that the timings of the camera installed at the church were programmed late by 18-19 minutes. The said person was seen first at the shop of Panna Lal and thereafter, at the church. We developed some hard pictures of the footage to ascertain the identity of offender. The offender could not be traced in the area despite efforts.

xxx

SC 290/2017

STATE Vs MANTRAM @ MANTRA @ SONU

FIR No. 101 /2017

PS (GOVIND PURI)

10.07.2024

PW-16

Statement of Ms. Nirmala, Trainee DJS Officer, earlier posted as SI at PS Govind Puri (re-called for further examination in chief after 05.07.2024).

On SA.

XXXXXXX by Sh. Brijender Kulshrestha, Ld..

Counsel for the accused.

The victim had came to the police station for the first time on 13.03.2017 in the evening hours after 06:30 PM but I do not remember the exact time. The time in the CCTV footage of both the places are around 09:00 PM but I do not remember the exact time.

At this stage, Ld. Defence Counsel wishes to show the CCTV footage from the pen drive to the witness.

Heard. Allowed.

The pen drive is taken out from the envelope and is shown to the witness.

The CCTV Footage stored in the Folder HDD2- DATA of the shop is shown to the witness.

In the CCTV Footage, one person along-with one child can be seen from 21:39:13 hrs. till 21:39:18 hrs.



The witness has stated that the person who is taking the small child is the accused and the child is the victim.

(Court observation: The footage is black and white and little blur and is not clearly visible).

The CCTV Footage contained in Pen Drive in file HDD1-DATA is played but no CCTV Footage of the time period of 21:21:51 PM to 21:21:55 PM of the Camera No. 3 installed at the Church was found retrieved, even though, the CCTV Footage of the time period prior to this time and of the later can be clearly seen.

It is wrong to suggest that the person in the CCTV footage is not the accused but someone else. I had not taken any expert help with respect to the blur image as I could gather another clear image of the accused from another CCTV footage from the CCTV footage installed at Church. I had placed the CCTV footage on the court record with the charge-sheet in the form of CD. It is wrong to suggest that the accused has been falsely implicated in the present case. It is wrong to suggest that no CCTV footage was recovered from the Camera installed at the Church showing the accused due to which it was not recovered.

xxx

SC 290/2017

STATE Vs MANTRAM @ MANTRA @ SONIJ

FIR No. 101/2017

PS (GOVIND PURI)

21.08.2024

At 02:15PM

PW-16

Statement of Ms. Nirmala, Trainee DJS Officer, earlier posted as SI at PS Govind Puri (re-called for further cross examination after 10.07.2024).

On SA.

**XXXXXXX by Sh. Brijender Kulshrestha, Ld.
Counsel for the accused**



I have stated in my cross examination of 10.07.2024 that victim had come to the police station on 13.03.2017 in the evening hours after 06:30PM but I do not remember the exact time as it was the tentative time and the victim had come late hours. It is incorrect to suggest that victim was in the police station at the time as shown in the CCTV Footage and was not at the place of the incident. It is correct that in the FIR, the time of the offence is mentioned as from 06:30 PM till 10:00 PM. It is wrong to suggest that the CCTV Footage is false and fabricated and that the accused was not present at the place of incident according to the time mentioned in the FIR. I got prepared the copy of the CCTV Footage from the DVR for the purpose of investigation and as DVR was already sent to the FSL, I did not place on record the copy which I got prepared from myself for the purpose of investigation. It is wrong to suggest that the victim was discharged from the hospital on the same day. In the arrest memo Ex. PW16/D, the date of arrest is mentioned as 08.03.2017. (Vol. It is a clerical mistake and the correct date can be confirmed from the first JC remand which is of 09.04.2017 wherein the date of arrest is mentioned as 08.04.2017).

I do not remember the date when the victim was called for the purpose of identification of the accused, however, I had not called him at the police station and I had shown her the video which I had developed from the CCTV Footage of the Church for the purpose of the identification of the accused. I had also recorded the statement of the victim to that effect. It is wrong to suggest that I had shown the accused to the victim in the police custody and also during his custody remand when he was produced in the court. It is wrong to suggest that the accused refused for his TIP as he was already shown to the victim in the police station and in the court. The TIP proceedings could not be conducted as accused had refused for his TIP in the document Ex. A-3. It is



wrong to suggest that the identity of the accused was in dispute since the beginning of the present case.”

Relevant paragraphs of the impugned judgment:

“28. The CCTV footages were played in the court. In the CCTV footage stored in the Folder HDD2-DATA, one person could be seen with one child from 21:39:13 hrs. till 21:39:18 hrs. The footage was black & white and was little blur and nothing was clearly visible. However, IO identified that person as accused and that child as victim. The CCTV footage contained in pen drive in File HDD1-DATA was played and no CCTV footage of the time period of 21:21:51 PM to 21:21:55 PM of camera no. 3 installed at the Church was found retrieved. There is a specific observation of the court that the CCTV footage of the time period prior to and later to the relevant time is clearly visible.

29. Though, I agree with the submission of the Ld. Defence counsel that the CCTV footages are of no help to the prosecution as in one footage, the images are blur and, in another footage, the footage of relevant time is missing but, the CCTV footage are of no help to the defence also. Even if the CCTV footages are not considered, what is relevant is that the victim identified the accused in the court. The accused was unknown to the victim. After the incident, the victim saw the accused again only in the court and she identified him as the one who had sexually assaulted her. Though, the accused has taken the defence that he was already shown to the victim but there is nothing on record to suggest the same. The application for TIP of accused was moved and he refused to participate in TIP. The TIP proceedings is Ex. A-3. It took place on 15.04.2017. The accused refused to participate in TIP on the basis that the witness has seen him in the police - station. However, there is nothing on record to show that the accused had already shown to the victim in



the police station prior to the TIP proceedings as on 15.04.2017. Only bald averment has been made by the accused that he was already shown to the victim in the police station, without any evidence to that effect. Therefore, adverse inference is required to be drawn against the accused for refusal to participate in TIP proceedings.

30. The assailant was unknown to the victim. She disclosed the name of the assailant as 'Mantra' as informed to her by the assailant. The assailant could inform any name to the victim, be it real or false or nick name. The identity of the assailant is not based upon his name but is based upon his looks/appearance. The name 'Mantra' could have been the correct name or fake name but what is relevant is that the victim identified the accused by his face in the court as the one who has sexually assaulted her. When the accused was shown to the victim through video link during her examination as PW-3, she identified the accused and seeing the accused, she concealed her face in the lap of the support person. The manner in which the victim acted after seeing the accused also shows that she was under fear after seeing the accused and she hid her face from the accused. Once the victim has identified the accused in the court as the assailant, the discussion with respect to the name of the accused becomes irrelevant."

41. In view of the Prosecutrix's credible testimony, corroborated by medical and circumstantial evidence, the identification of the Appellant by the Prosecutrix in court, his failure to explain his presence with the Prosecutrix in the CCTV footage, his signatures as "Mantram" on all the Court documents, and the failure of the Defence to rebut the statutory presumptions, this Court holds that the presumptions under Sections 29 and 30 of the POCSO Act stand attracted and remain unrebutted. The Id. Trial Court has rightly convicted the



Appellant.

42. However, on the issue of sentence, this Court notes certain mitigating circumstances. The Appellant is about 40 years of age and as per the Nominal Roll submitted by the Office of the Superintendent on 5th December 2025, he has undergone incarceration of approximately 8 years, 6 months and 23 days with nothing adverse recorded against him. The Appellant was granted interim bail during the trial period from 6th September 2019 to 11th October 2019 after which he duly surrendered. The Appellant's submission that his family consists of an aged bedridden father above 80 years who is incapable of work, a critically ill wife suffering from persistent nasal bleeding and earning merely ₹250 per day as a farm labourer to sustain the entire family, and 5 minor children who have been forced to discontinue schooling due to financial hardship can be taken into consideration.

43. The incident occurred on 13th March 2017, prior to the amendment to the POCSO Act in 2019. At the time of the incident, the minimum sentence under Section 6 of the POCSO Act was 10 years and the maximum was life imprisonment. The Id. Trial Court imposed rigorous life imprisonment upon the Appellant. In comparable circumstances, the Supreme Court in **Deepankar Tikedar v. State of Chhatisgarh**, 2025 SCC OnLine SC 2636, has held that while conviction under Section 6 of the POCSO Act may be sustained, the sentence of life imprisonment can be modified to a fixed-term sentence after balancing aggravating and mitigating factors. The relevant portion of the same is reproduced in the following terms:

“7. It is not in dispute that the appellant herein has been convicted under Section 376(3) of the IPC and Section 6 of the POCSO Act and sentenced to undergo life imprisonment till natural death. The offence is also grievous.



However, considering the age of the appellant and also that there are no antecedents and further his conduct during custody has been satisfactory, the sentence of life imprisonment till natural death can be converted to limited period. We hereby reduce the sentence awarded to the appellant to a fixed term of 25 years actual imprisonment without remission. This court can exercise such a power in view of law laid down in Shiva Kumar @ Shiva @ Shivamurthy v. State of Karnataka.”

Conclusion

44. Taking into consideration the mitigating circumstances, the period of incarceration already undergone by the appellant, his satisfactory conduct in jail, the fact that the offence occurred prior to the 2019 amendment, and the grave hardship being faced by his family which is entirely dependent on him, this Court is of the view that the ends of justice would be met if the sentence is modified.

45. Accordingly, while upholding the conviction, this Court modifies the sentence of life imprisonment to rigorous imprisonment for 10 years. The Appeal is partly allowed to this extent.

46. Pending applications, if any are also disposed of.

47. Copy of this order be sent to the Jail Superintendent, for information and compliance.

**MADHU JAIN
JUDGE**

**PRATHIBA M. SINGH
JUDGE**

FEBRUARY 4, 2026/Av