



2026:DHC:6553



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 29.07.2026
Date of Decision: 12.08.2026
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+ **CRL.A. 573/2026 & CRL.M.(BAIL) 1165/2026**

NETRAM KUMAR

.....Appellant

Through: Mr. S.K. Raghuvanshi and Mr A. Deb
Kumar, Advs.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Digam Singh Dagar, APP

CORAM:

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

MADHU JAIN, J.

1. This hearing has been done through hybrid mode.
2. The present appeal has been preferred under Section 415 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), assailing the judgment of conviction dated 16.04.2026 and the order on sentence dated 15.05.2026 passed by the learned ASJ/Special Judge (POCSO), Shahdara, Karkardooma Courts, Delhi in ***Sessions Case No. 374/2018*** arising out of FIR No. 678/2016 registered at Police Station Nand Nagri, whereby the Appellant has been convicted for offences punishable under Sections 354 and 354A of the Indian Penal Code, 1860 (hereinafter referred to as, 'IPC') and Section 10 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as, 'POCSO') and sentenced to undergo rigorous imprisonment for a period of five years along with a fine of ₹2,000/-.



FACTUAL MATRIX

3. Briefly stated, the prosecution case is that on 11.08.2016, a complaint was lodged by the prosecutrix, a minor student, alleging that the Appellant, who was employed in her school as a drawing teacher, had subjected her to inappropriate conduct on different occasions within the school premises. On the basis of the said complaint, FIR No. 678/2016 came to be registered at Police Station Nand Nagri for offences under Section 354A IPC and Section 10 of the POCSO Act. Investigation was entrusted to SI Ina Kumari. The Appellant was interrogated and arrested on 12.08.2016 and was thereafter medically examined and produced before the learned Court.

4. During the course of investigation, statements of the prosecutrix and other witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973 (hereinafter referred to as '*Cr.P.C.*'). The statement of the prosecutrix under Section 164 Cr.P.C. was recorded by the Metropolitan Magistrate, Shahdara, Karkardooma Courts, Delhi, on 17.08.2016.

5. Upon completion of investigation, the charge-sheet was filed before the learned Trial Court in the year 2018. The case was registered as Sessions Case No. 374/2018 and was committed to the Court of Sessions. On 24.07.2018, the learned Trial Court took cognizance of the offences punishable under Sections 354A/202/354 IPC and Sections 10/21(2) of the POCSO Act and directed issuance of summons to the accused persons.

6. After hearing the parties on the question of charge, the learned Trial Court, vide order dated 17.07.2019, found a prima facie case against the Appellant for offences punishable under Sections 354, 354A IPC and Section 10 of the POCSO Act, and against co-accused Asha Kumari for an offence punishable under Section 21 of the POCSO Act. On 19.11.2019, charges were accordingly framed against the Appellant for offences punishable under



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Sections 354 and 354A IPC and Section 10 of the POCSO Act. The Appellant pleaded not guilty to the charges and claimed trial. Thereafter, on 02.12.2019, a charge under Section 21 of the POCSO Act was framed against co-accused Asha Kumari, who also pleaded not guilty and claimed trial. In support of its case, the prosecution examined ten witnesses. The prosecutrix was examined as PW-1. PW-2 HC Yogesh was examined in relation to the arrest and personal search of the Appellant. PW-3 ASI Devender Kumar, the then Duty Officer, was examined to prove the registration of the FIR and the connected formalities. PW-4, a friend of the prosecutrix, and PW-5, her mother, were examined in relation to the circumstances surrounding the alleged incidents. PW-6, the elder sister of the prosecutrix, and PW-7, her father, were examined with respect to the disclosures allegedly made by the prosecutrix and the subsequent events at the school and the reporting of the matter to the police. PW-8 SI Sangeeta and PW-9 Inspector Ina Kumari were examined as Investigating Officers. PW-10 Sadanand Bhardwaj, a teacher of the concerned school, was examined in relation to the school records and the date of birth of the prosecutrix.

7. The prosecution evidence was closed on 21.03.2024. Thereafter, the statement of the Appellant under Section 313 Cr.P.C. was recorded. The Appellant denied the incriminating circumstances put to him and expressed his intention to lead evidence in his defence. In defence, the Appellant examined two witnesses, namely DW-1 Ms. Deepti Sati, Teacher, GGSS School, Karawal Nagar, and DW-2 Smt. Alka Chaudhary, Deputy Director of Education, Zone-VI. The defence evidence was thereafter closed.

8. Upon conclusion of the evidence and after hearing the parties, Vide judgment dated 16.04.2026, the learned Trial Court convicted the Appellant for offences punishable under Sections 354 and 354A IPC and Section 10 of



the POCSO Act. Vide order on sentence dated 15.05.2026, the Appellant was sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of ₹2,000/-, and in default of payment of fine, to undergo further simple imprisonment for a period of one month.

9. The relevant extracts of the impugned judgment dated 16.04.2026 are reproduced hereinbelow:

“98. From the evidence discussed above, it stands established that the victim was a minor child below the age prescribed under the relevant provisions of law. The accused admitted the birth certificate of the victim in his statement u/s 294 Cr.P.C.

99. From the evidence on record, it stands established that accused Netram engaged in inappropriate physical conduct with the minor victim within the school premises. His conduct, as described by the victim, clearly falls within the ambit of sexual assault as defined under section 9 of the POCSO Act. The prosecution has proved that the accused Netram on the next day of 28.02.2015 during school time at school (name withheld while the victim (name withheld), aged about 12 years, was distributing toffee on the occasion of her 12th birthday, he held her hand with sexual intent and also in the last week of July, 2016 during school time in the staff room of the school, he misbehaved the above-said minor child victim (name withheld) and touched her body till the posterior, he also touched her breast and made physical contact and advances involving unwelcome and explicit sexual overtures and assaulted or used criminal force to the minor child victim, with intending to outrage or knowing it to be likely that he will thereby outrage her modesty. Further, he committed aggravated sexual assault upon the above said minor female child victim (name withheld) aged about 12 years in the above-said manner with sexual intent. The testimony of the



victim, corroborated by other witnesses, establishes his culpability beyond reasonable doubt. The defence has failed to discredit this evidence. Therefore, the prosecution has successfully established the essential elements of the offence beyond reasonable doubts. Thus, the ingredients of Section 354/354-A IPC and Section 10 of the POCSO Act stand proved.

100. The role of accused Asha Kumari is also clearly established. The prosecution has also proved the allegations against the accused Asha Kumari that on the next day of 28.02.2015 during school time at the school (name withheld) and in the last week of July, 2016 during school time at the school, her co-accused Netram had committed aggravated sexual assault upon the victim child (name withheld), aged about 12 years, who was studying in her school and on the next day father of the victim informed her but she being the Principal and in-charge of the school did not take any action and failed to report the commission of offence. It has come on record that she was informed about the incident but failed to take appropriate action. Instead, she discouraged the complainant and created an atmosphere of fear. Being in a position of authority, she was under a legal obligation to act upon such information. Her failure to do so attracts liability under section 21 (2) of the POCSO Act. Therefore, the prosecution has successfully established the essential elements of the offence beyond reasonable doubts. Thus, the ingredient of Section 21(2) of the POCSO Act stands proved.

CONCLUSION

101. In view of the above detailed discussion, **accused Netram stands convicted for the offences punishable u/s 354/354-A IPC and Section 10 of the POCSO Act and accused Asha Kumari stands**



convicted for the offence punishable u/s 21(2) of the POCSO Act, for which they were charged.”

10. The relevant extracts of the impugned order of sentence dated 15.05.2026 are reproduced hereinbelow:

14. In the present case, the convict Netram Kumar is liable to be sentenced for offence u/s 10 of the POCSO Act instead of section 354/354-A IPC.

15. Therefore, considering the overall facts and circumstances, for the offence punishable u/s 10 of the POCSO Act, convict Netram Kumar is sentenced to undergo rigorous imprisonment for a period of 05 years and pay fine of Rs.2,000/- and in default of payment of fine, further simple imprisonment for a period of one month.

16. As per the report of the Jail Superintendent, convict Netram Kumar has undergone total custody period of 19 days i.e., from 12.08.2016 to 26.08.2016 (15 days) and from 16.04.2026 to 19.04.2026 (04 days). Therefore, the benefit of section 428 Cr.P.C. is given to the convict Netram Kumar and the period of detention already undergone by him till date be set off against the sentence.

17. Fine not paid.

Xxx

28. Considering the totality of facts and circumstances and for the ends of justice, final compensation of Rs.3,00,000/- (Rupees Three Lacs Only) is awarded to victim U/s 33 (8) of POCSO Act read with Rule 9 of POCSO Rules, 2020 & Section 357A CrPC for the loss, trauma and mental injury suffered by the victim as a consequence of the present offence.

29. Considering the facts and circumstances of the case and very poor financial condition of the convict, it is directed that the entire compensation amount of Rs.3,00,000/- (Rupees Three Lacs only) shall be paid by DLSA (Shandara), Karkardoorna,



Delhi to the victim. Ld. Secretary, DLSA, Shandara is directed to disburse the said amount to the victim in accordance with Delhi Victim Compensation Scheme, 201.

11. Aggrieved by the aforesaid judgment of conviction and order on sentence, the Appellant preferred the present appeal before this Court.

SUBMISSIONS ON BEHALF OF THE APPELLANT

12. Learned counsel for the appellant submits that there are serious contradictions with regard to the date as well as the place of the alleged incident. It is submitted that the prosecutrix, in some part of her evidence, stated that the incident took place in June 2016, whereas in other parts, she stated that it occurred in July 2016. It is contended that neither the specific date nor the month, and to some extent even the year or the number of alleged incidents, has been consistently stated, thereby causing prejudice to the appellant in properly defending himself. Learned counsel further submits that the prosecutrix stated that the alleged incident took place in the library, whereas the site plan prepared during investigation depicts the place of incident as the Staff Room. It is submitted that the Trial Court has convicted the appellant almost entirely on the testimony of the prosecutrix and, in the absence of independent corroboration, once such testimony is rendered doubtful, the conviction cannot be sustained.

13. Learned counsel for the appellant submits that the material witnesses did not support the case of the prosecution. It is contended that PW-4, who was the friend of the prosecutrix, and PW-5, who was her mother, were expected to support the prosecution case but both the witnesses turned hostile.

14. Learned counsel for the appellant contends that the investigation conducted in the present case was deficient. It is submitted that the



Investigating Officer neither seized the attendance records nor collected the relevant school records, and also failed to examine the other teachers or school staff who might have been present at the relevant time. It is contended that these omissions on the part of the Investigating Officer create material gaps in the prosecution case.

15. Learned counsel for the appellant submits that the Trial Court has wrongly invoked the presumption under Section 29 of the POCSO Act. It is contended that the presumption under Section 29 can arise only after the prosecution has first established the foundational facts constituting the offence. Learned counsel submits that the Trial Court applied the said presumption at an early stage without first establishing the foundational facts beyond reasonable doubt. It is further submitted that the sole testimony of the prosecutrix, PW-1, is not of such sterling quality as can be safely relied upon without corroboration, as the same is inconsistent, contains contradictions and is not free from prevarication. Learned counsel places reliance upon the judgment of the Supreme Court in ***Rai Sandeep alias Deepu v. State (NCT of Delhi)***, (2012) 8 SCC 21 (2012) 8 SCC 21, and submits that the testimony of a sterling witness must remain intact on the core spectrum of the crime and should find support from the attendant oral, documentary and material evidence.

16. Learned counsel for the appellant further submits that the appellant is 65 years of age and is suffering from various ailments associated with old age. It is submitted that he is a heart patient and has two stents inserted in his heart. Learned counsel further submits that the appellant underwent a kidney operation in July 2025 and is also suffering from diabetes, spinal disease and partial functioning of his left arm. It is contended that the aforesaid medical and age-related circumstances also deserve to be taken into consideration.



17. Learned counsel for the appellant submits that there are material contradictions between the testimony of the prosecutrix, PW-1, and her sister, PW-6. It is submitted that PW-1 deposed that, after the alleged incident, she went to her class teacher, obtained permission to go home and thereafter went home, whereas PW-6 stated in her deposition that they returned to their house. Learned counsel further submits that the prosecutrix had never stated that she had spoken to her sister about the alleged incident at school or that she had returned home along with her sister. It is further contended that, in her statement under Section 164 Cr.P.C., the prosecutrix stated that she had first disclosed the alleged sexual assault, allegedly committed by the appellant/convict in June 2016, to her mother at home, whereas PW-6 deposed that the incident was disclosed to her father. It is submitted that these contradictions materially affect the credibility of the prosecution case.

18. Learned counsel for the appellant submits that the class teacher from whom the prosecutrix allegedly obtained permission to leave the school early on the alleged date of incident, stated to be in the last week of June/July, has not been examined by the prosecution. It is contended that the said teacher was a material witness and her non-examination deprives the prosecution of material corroboration of the version of the prosecutrix.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

19. Learned APP for the State, appearing on behalf of the Respondent, submits that the impugned judgment of conviction and order on sentence are well-reasoned and based on a proper appreciation of the evidence led before the learned Trial Court. It is submitted that the learned Trial Court has considered all the material aspects of the case and has rightly appreciated the



testimony of the prosecutrix as well as the corroborative evidence available on record.

20. Learned APP further submits that there is nothing on record which would discredit or impeach the testimony of the prosecutrix. It is contended that the testimony of PW-1 has remained consistent on the material particulars and inspires confidence. The minor discrepancies sought to be highlighted by the Appellant relate only to peripheral aspects and do not affect the core of the prosecution case.

21. It is further submitted that the testimony of the prosecutrix finds corroboration from the testimony of PW-6, her elder sister, and PW-7, her father, particularly with regard to the disclosure of the incident and the subsequent events. Learned APP submits that the fact that certain witnesses did not fully support the prosecution case does not render the testimony of the prosecutrix unreliable, particularly when her evidence has withstood cross-examination and no material contradiction has been elicited.

22. Learned APP contends that the learned Trial Court has rightly dealt with the alleged discrepancies concerning the date and place of occurrence and has correctly held them to be minor and inconsequential. It is submitted that the absence of an exact date or minor variations regarding the sequence of events cannot outweigh the consistent and cogent account given by the child victim regarding the acts committed by the Appellant.

23. Learned APP further submits that the prosecution had established the foundational facts necessary for attracting the statutory presumption under Section 29 of the POCSO Act. Once the testimony of the prosecutrix and the surrounding corroborative circumstances established such foundational facts, the statutory presumption operated against the Appellant. It is submitted that



the Appellant failed to rebut the said presumption or otherwise create any reasonable doubt in the prosecution case.

ANALYSIS AND FINDINGS

24. I have heard the learned counsel for the petitioner and have gone through the material on record.

25. At the outset, it is required to be noted that the learned Trial Court has not proceeded on the basis of the testimony of the prosecutrix in isolation or by mechanically invoking the statutory presumption under the POCSO Act. The learned Trial Court has first examined the foundational facts, including the age of the prosecutrix, the nature of the allegations, the testimony of the prosecutrix and the corroborative evidence brought on record, and has thereafter applied the statutory presumption. Such an approach is consistent with the scheme of Section 29 of the POCSO Act, under which the prosecution is required to establish the foundational facts before the statutory presumption can operate. The presumption, once attracted, remains rebuttable by the accused. The Supreme Court has also reiterated that where the testimony of the child victim is found to be credible and trustworthy, it can constitute the foundational evidence for attracting the statutory presumption.

26. The principal challenge raised by learned counsel for the Appellant is to the credibility of PW-1, the prosecutrix. Having carefully examined her testimony, this Court finds no reason to take a view different from that taken by the learned Trial Court. The prosecutrix has consistently attributed specific acts of inappropriate physical contact to the Appellant within the school premises. She deposed that the Appellant called her on the pretext of giving her a pen, took her into a room, made her sit and thereafter touched her inappropriately, including on her back and posterior region. She further stated that when she attempted to resist, the Appellant held her hand and did not



immediately permit her to leave, whereafter she managed to escape by pushing him. The relevant portion of the testimony of PW-1, wherein she has specifically deposed about the acts attributed to the Appellant, is reproduced hereinbelow:

“At the time of incident I was studying in 7th E-class. In the month of July, 2016, however, I do not remember the exact date, on that day at about 8:00 AM, I was going to class of my elder sister to get a pen. When I reached near stairs, Netram Sir met me there, he asked me where I was going, I told him that I was going to get a pen from my elder sister. On which, Netram told me that he is having a pen and he asked to come with him for taking a pen. Then, Netram took me inside the library room on the pretext of giving a pen. He got me seated on a chair and thereafter he started touching/moving his hands on my back portion of body, while moving hand on my back portion, accused touched me posterior portion of body in backside.

He did not give any pen to me. I asked to leave telling him to take a pen from my elder sister. Accused was not leaving me despite my request as he was catching me by holding my hand. I pushed accused Netram and came from that room and reached to my class teacher and got permission from her for going to home. Thereafter I left my school and went to home. I told incident to my mother and my mother further told incident to my father. Thereafter my father talked with Principal of the school in this respect. School Principal assured my father that no such incident will be repeated in future.

*I kept continue to go to school. Thereafter one day when I was present at school, Principal Madam called me her office and asked me by saying “**Choti-Choti Baten Ghar Par Nahi Batate**”. I told*



aforesaid fact to my father. Thereafter I along with my father went to PS, where police made enquire from me and recorded my statement. I handed over written complaint to the police.

*In the school, Netram Sir misbehaved with me on three occasions first time moulded my hand when I was distributing toffee in the school, on the account of my birthday, year I do not remember. Again said it is on **28.02.2016**. Second incident committed by accused, I do not remember today.”*

27. Nothing has been brought to the notice of this Court which would materially impeach the testimony of the prosecutrix. The defence has been unable to elicit, in the course of her cross-examination, any contradiction going to the root of the prosecution case. The fact that there are variations in the narration regarding peripheral details, such as the precise date or sequence of events, cannot by itself render the testimony unreliable, particularly when the core allegation against the Appellant has remained intact. The learned Trial Court has considered these discrepancies and has rightly found them to be minor in nature. This Court finds no reason to take a different view.

28. On an overall appreciation of the evidence, this Court finds that the testimony of the prosecutrix is consistent on the material particulars and inspires confidence. Her version is not only supported by the circumstances in which she disclosed the incident to her family, but also finds corroboration from the testimony of her elder sister, PW-6, who deposed regarding the disclosure made by the prosecutrix and the subsequent complaint made to the Principal against the Appellant. PW-6 further deposed about the conduct of the Appellant towards the prosecutrix and the subsequent response of the co-accused. Thus, the testimony of PW-1 does not stand in isolation, but receives assurance from the testimony of PW-6 and the surrounding circumstances.



The discrepancies pointed out by the Appellant relate to peripheral aspects and do not touch upon the core of the prosecution case. The relevant extract from the testimony of PW-6 is reproduced hereinbelow:

“On SA

Due to fear of accused Asha Kumar, the then Principal of my school, I had told my wrong name to the IO to be “S” though my actual name is “A”. “S” is name of my real sister who was studying in 10th Class and at that time I was studying in 9th Class in the same school, Nand Nagri (particular withheld). IO/Insp. Ina Kumari, who is present in the Court today has also submitted that this witness had told her name to be “S” and due to the said wrong information, her statement u/s 161 Cr.P.C. was recorded in the name of “S” and not in her name.

My younger sister “B” was also studying in the same school in 6th class in the year 2016. One day in the school, she told me that the accused Netram had called her to staff room and tried to do “Chedchaad”. She told me that in the staff room, he touched her on the front side as well as on her back side. We returned to our house and told about it to our father. On the next day, I alongwith my father and my victim sister went to school and met the Principal of the school i.e. accused Asha Kumar. My father orally complaint about the said conduct of the accused Netram to accused Asha Kumar. She assured that she would make him understand and he will not repeat this mistake.

However, next day, when we went to school, the accused Netram was staring my victim sister “B” in my presence. He further said to us that nothing happened on your complaint to the Principal. Because of his said conduct, we got scared.



Thereafter, we went to the Principal (accused Asha Kumar) for again complaining against the accused Netram. On our complaint, she threatened us if we make complaint against him afresh, she would remove us from the school and will fail us. We returned home and told about it to our father. Thereafter, my victim sister “B” made a complaint against the accused persons in the Police Station.”

29. The contention regarding the discrepancy in the description of the place of occurrence, namely, whether it was the library or the staff room, also does not persuade this Court. The alleged occurrence is consistently placed within the school premises and there is no ambiguity regarding the identity of the Appellant or the nature of the acts attributed to him. Such variation, particularly when viewed in the context of the age of the prosecutrix and the passage of time between the occurrence and her deposition, cannot be elevated to a material contradiction so as to discard the otherwise credible testimony of the victim.

30. On an overall appreciation of the evidence, this Court finds that the testimony of the prosecutrix is consistent on the material particulars and inspires confidence. Nothing substantial has emerged in her cross-examination which would render her testimony unworthy of reliance. The corroborative evidence of PW-6 and PW-7 lends further assurance to her version. The discrepancies pointed out by the Appellant relate to peripheral aspects and do not touch upon the core of the prosecution case.

31. The reliance placed by learned counsel for the Appellant on ***Rai Sandeep alias Deepu v. State (NCT of Delhi), (2012) 8 SCC 21***, is also of no assistance. The principle laid down therein regarding the standard of a ‘sterling witness’ has to be applied on the facts of each case. In the present case, the testimony of PW-1 does not suffer from the kind of material



inconsistencies or prevarication which would render it wholly unsafe to rely upon. On the contrary, the learned Trial Court, after examining her testimony in the context of the complaint, her statement under Section 164 Cr.P.C. and her deposition before the Court, found the core version to have remained intact. This Court finds no reason to interfere with that assessment.

32. The law is well settled that the testimony of the prosecutrix, if found to be reliable, cogent and trustworthy, can by itself form the basis of conviction and there is no requirement of corroboration as a matter of law. The Supreme Court in ***State (NCT of Delhi) v. Pankaj Chaudhary, (2019) 11 SCC 575***, has held as under:

“24. It is now well-settled principle of law that conviction can be sustained on the sole testimony of the prosecutrix if it inspires confidence. [Vishnu alias Undrya v. State of Maharashtra, (2006) 1 SCC 283]. It is well-settled by a catena of decisions of this Court that there is no rule of law or practice that the evidence of the prosecutrix cannot be relied upon without corroboration and as such it has been laid down 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 probability factor does not render it unworthy of credence, as a general rule, there is no reason to insist on corroboration except from medical evidence, where, having regard to the circumstances of the case, medical evidence can be expected to be forthcoming. [State v. N.K., (2000) 5 SCC 30].”

33. Before parting with the matter, this Court considers it necessary to record its serious concern over the circumstances brought on record. A child ordinarily reposes trust and confidence in a teacher. Such trust is sacred to the



teacher-student relationship and carries with it a corresponding duty to protect the child, rather than to abuse or breach the trust so reposed. The abuse of such position, particularly against a young girl of an age comparable to that of the teacher's own daughter, is a matter of grave concern and cannot be treated as a mere breach of discipline or propriety.

34. The conduct attributed to the co-accused, who, despite being the Principal of the school, is stated to have told the child that such matters should not be disclosed to her parents, is equally disturbing. A child who complains of such conduct ought not to be made to feel that she has done something wrong by speaking about it. The Court is of the view that educational institutions must, instead, ensure that children are made aware of their rights and are encouraged to speak about any conduct which causes them fear, discomfort or insecurity. The school environment must inspire sufficient confidence in children, both girls and boys, to come forward and place their concerns before the persons entrusted with their care.

CONCLUSION

35. In view of the aforesaid discussion, this Court finds no merit in the present appeal. The judgment of conviction dated 16.04.2026 and the order on sentence dated 15.05.2026 passed by the learned ASJ/Special Judge (POCSO), Shahdara, Karkardooma Courts, Delhi, are hereby affirmed.

36. Accordingly, the present appeal is dismissed. Pending application(s), if any, also stand disposed of.

37. Copy of this judgment be sent to the concerned learned Trial Court for necessary information and compliance.

**MADHU JAIN
(JUDGE)**

AUGUST 12, 2026/rm