

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

Crl A No.28 of 2025 with
MC (Crl.A) No.55 of 2025

Md.Fayajudddin ... Appellant

-Versus-

State of Manipur ... Respondent

**BEFORE
HON'BLE MR. JUSTICE A.GUNESHWAR SHARMA
(O R A L)**

4.2.2026

Heard Mr.Ajmal Hussain, along with Ms.Roja Shahni, learned counsel appearing on behalf of the appellant as legal aid counsel. Also present Mr.H.Samarjit, learned PP assisted by Mr.W.Niranjit, learned Dy.GA on behalf of the State.

[2] The appellant, who is accused in FIR No.5 (2) 21 Women Police Station, Thoubal was convicted, vide judgment and order dated 23.9.2022, passed by the learned Special Judge, POCSO, Thoubal in Spl Trial (POCSO) case No.9 of 2021, for the offence under Section 10 of the POCSO for aggravated sexual assault and vide order on sentence dated 28.9.2022, appellant was directed to undergo R.I. for 6 years along with fine of Rs.10,000/- in default of a fine with another S.I of 6 months. It is also directed that a fine of Rs.10,000/- if deposited, the same be released and awarded to the victim as compensation.

[3] At the outset, Mr.Ajmal Hussain, learned counsel for the appellant submits that even though Cril Appeal No.20 of 2025 is preferred by the appellant against the order of conviction and sentence,

he is confining to the quantum of sentence and not questioning the conviction order dated 23.9.2022 passed by the learned Special Judge, POCSO in Spl Trial, POCSO Case No.9 of 2021. In the circumstance, matter may be heard only on the question of quantum of quantum of punishment.

[4] Before proceeding further, brief fact of the case is that the appellant was accused of committing aggravated sexual assault on a victim on 31.1.2021 and FIR No.5(2) 2021 Women Police Station, Thoubal was registered under Section 4 of the POCSO Act, 2012. Appellant was arrested on 1.2.2021 and since then he has been in custody.

After investigation charge sheet was submitted for an offence under Section 6 of the POCSO Act and accordingly, charge sheet was framed against the appellant under Section 6 of the POCSO Act and he denied the charge and claimed to be innocent.

[5] During trial, prosecution produced 17 PWs and exhibited 21 exhibits and produced 6 material objects. After perusing the materials on record and depositions, learned Spl Judge, POCSO, vide judgment dated 23.9.2022 convicted the appellant under Section 10 of the POCSO Act by converting the offence under Section 6 of the POCSO Act to an offence under Section 10 of the POCSO Act.

[6] The victim at the relevant time, was aged 4 years old and conviction under Section 10 of the POCSO was passed read with Section 9 (m). In the order of sentence dated 28.9.2022, the appellant was directed to undergo R.I of 6 years with fine of Rs.10,000/- in default, another S.I for 6 months. Mr.Ajmal Hussain, learned counsel for the appellant submits that the appellant is now aged about 55 years and his wife is aged about 35 years and a first time offender and since his

arrest on 1.2.2021 he is in custody and was not released on bail during course of investigation and trial.

[7] Learned counsel for the appellant draws attention of this Court to Section 10 of the POCSO Act which provides minimum sentence of 5 years which may extend to 7 years. It is submitted that in the present case, appellant has been awarded with sentence of 6 years and may be reduced to minimum period of 5 years which has already lapsed on 1.2.2026. Appellant is now a reformed person.

Learned counsel for the appellant submits that no specific ground is given for imposing more than the minimum sentence and sentence of 6 years may be reduced to minimum 5 years.

It is further submitted that the appellant is a first time offender and has also a family to look after, sentence may be reduced to minimum imprisonment of 5 years (i.e. period already undergone) and appellant will abide by any condition imposed by this Court.

[8] On the other hand Mr.H.Samarjit, learned PP submits that the present case falls under aggravated sexual offence where the victim was four years old at the time of occurrence and by now she may be around 9 years. Releasing the appellant at this stage may not be proper and it may traumatise the victim. It is submitted that the appellant be directed to undergo full sentence awarded by the Trial Court, as the appellant has given up his appeal against the conviction.

[9] Mr.Ajmal Hussain, learned counsel for the appellant clarifies that the appellant is bound to be released on expiry of 6 years of imprisonment, in the Month of February, 2027. By preponing his release by one year will not make any substantial change and the appellant will abide by the conditions as imposed by this Court.

[10] This Court has gone through the materials on record and considered the submissions made at the Bar. As learned counsel for the appellant, on instruction, did not press appeal against conviction, matter is heard on the quantum of sentence. Even though charge sheet was filed under Section 6 of the POCSO Act, by the impugned judgment and order dated 23.9.2022, the learned Spl Judge, POCSO, Thoubal gave a definite finding in para 52 of the Judgement that case falls under Section 7 and since the victim is 4 years old, and by invoking Section 9 (m) of the Act, the charge under Section 6 was converted into charge under Section 10. Accordingly, the appellant was convicted under Section 10 of the Act.

Since the appeal against conviction is given up, this Court does not interfere with the conviction under Section 10 of the POCSO Act and order of conviction dated 23.9.2022 is hereby confirmed.

[11] Now coming to the question of quantum of punishment, Section 10 provides that for an aggravated sexual assault (non-penetrative offence), the accused will be liable for imprisonment for a minimum period of 5 years and which may extend to 7 years with fine. By the order of sentence dated 28.9.2022, the appellant was directed to undergo RI for 6 years and in default another S.I of 6 months. Since appellant was arrested on 1.2.2021 period for minimum 5 years imprisonment has expired on 1.2.2026 and period of 6 years will expire on 1.2.2027. If the quantum of sentence is not interfered by this Court, the appellant is to be released in the Month of February, 2027.

[12] Considering the fact that the appellant has already undergone substantive portion of sentence, he is a first time offender and has a family to look after, this Court is of the opinion that sentence given to appellant may be reduced to minimum period of 5 years. In the circumstance, order of sentence passed by learned Spl Court

POCSO, Thoubal is modified to 5 years minimum imprisonment with fine of Rs.10,000/- and in default S.I for 6 months. The Trial Court had already directed that fine of Rs.10,000/-, if deposited, be given as compensation to the victim. Accordingly, if the fine of Rs.10,000/- is not paid earlier, same shall be deposited with the Court of Special Judge, POCSO, Thoubal, within a period of two weeks and upon such deposit, learned Special Court is directed to issue release order and appellant be released, if not required, in any other case.

[13] It is further directed that the appellant should not come in the vicinity of the victim. The appeal is partly allowed. MC (Crl.A) 55 of 2025 is disposed of in terms of the above order.

Registry is directed to forward this order to learned Special Judge, POCSO Thoubal, for information

JUDGE

FR/NFR

Priyojit

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PRIYOJIT SINGH
Date: 2026.02.06
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