IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 306 OF 2026

Rajendra S/o. Suryabhan Darade,
Age : 56 years, Occu. : Agril & Social Worker,
R/o. Pagori Pimpalgaon,
Tq. Pathardi, Dist. Ahilyanagar. **.... Applicant**

Versus

1. The State of Maharashtra,
Through Police Inspector,
Pathardi Police Station, Pathardi,
Tq. Pathardi, Dist. Ahilyanagar.

2. X.Y.Z. **... Respondents**

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Mr. K. N. Shermale, Advocate for Applicant.
Mr. S. D. Ghayal, APP for Respondent No.1 – State
Ms. Sarika Maru Tekale, Advocate for Respondent No.2 (Appointed)

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CORAM : HITEN S. VENEGAVKAR, J.
RESERVED ON : 22nd OCTOBER, 2026
PRONOUNCED ON : 28th OCTOBER, 2026

JUDGMENT :

1. The applicant has preferred this revision application under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023, challenging the order dated 23rd July, 2026 passed by the learned Fast Track Special Judge (POCSO), Ahmednagar, below Exhibit 17 in Special Case No. 336 of 2025. By the impugned order, the learned Special Judge rejected the application filed by the applicant under Section 250 of the BNSS seeking his discharge

from the offence punishable under Section 21 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "POCSO Act"). The present applicant is accused No. 3 in the said case. The question which arises for consideration is whether the material collected during investigation discloses sufficient grounds for proceeding against the applicant for failure to report the commission of an offence under the POCSO Act.

2. Heard the learned Advocate appearing for the applicant, the learned APP for the respondent-State and the learned Advocate appearing for respondent No.2, the original informant. I have considered the First Information Report, the relevant statements forming part of the charge-sheet, the application for discharge and the order passed by the learned Special Judge. I have also considered the decision of the Hon'ble Supreme Court in case of ***AAA v. Linda Sema and Others, 2026 (8) SCC 68***, upon which considerable reliance has been placed during the hearing.

3. The prosecution case, in brief, is that the minor daughter of the informant was studying in the third standard in a Zilla Parishad school. On 1st August, 2025, after returning from school, the child disclosed to her mother that accused No.1 Sanjay

Uttam Funde, who was working as a teacher in the school, had subjected her to sexual assault. The child also expressed unwillingness to attend the school. The informant conveyed the incident to her husband. On 2nd August, 2025, the parents visited the school with the intention of questioning the concerned teacher. However, they could not meet him. The school remained closed on 3rd August, 2025.

4. On 4th August, 2025, the informant and her husband approached certain persons from the village, including the present applicant, and narrated the incident concerning their daughter. It is stated that the applicant is the husband of the Sarpanch of said village. Thereafter, it is alleged that the applicant and the other villagers accompanied the parents to the school. The concerned teacher was questioned about the allegations made by the child. According to the prosecution, he apologized and assured those present that such conduct would not be repeated. It is further alleged that the applicant and the other persons advised the parents not to lodge a complaint with the police and told them that, as they were required to continue residing in the village, they should not invite unnecessary difficulties. The First Information Report was eventually lodged on 7th August, 2025.

5. During investigation, the statements of the informant, her relatives, the school authorities and other witnesses were recorded. The applicant and three other villagers were implicated for failure to report the offence under Section 21 of the POCSO Act. After completion of investigation, the charge-sheet came to be filed before the learned Special Judge. The applicant thereafter preferred an application for discharge below Exhibit-17. The learned Special Judge rejected the application, principally on the ground that the applicant had received information about the alleged offence from the parents and thereafter he had accompanied them to the school and questioned the accused teacher and thereafter had failed to report the matter to the police.

6. The learned Advocate for the applicant submits that the applicant has been implicated merely because he accompanied the parents to the school at their request. He submits that the applicant is a social worker and that his wife is the Sarpanch of the village. According to him, villagers frequently approach the applicant whenever disputes arise in the locality. The applicant was approached by the parents for assistance and, upon their request, he accompanied them to the school. He submits that the applicant had no connection with the commission of the alleged sexual offence and that the child had never disclosed the incident

to him.

7. The learned Advocate further submits that the statements recorded during investigation do not consistently attribute any individual act of threatening or pressurising the informant to the applicant. He invites attention to the statement of the informant recorded before the Magistrate under Section 183 of the BNSS and submits that the allegations subsequently made in the supplementary statement require careful consideration. He further points out that the Headmistress of the school had already been approached on 2nd August, 2025, but no proceedings under Section 21 have been initiated against her. According to him, the investigating agency has proceeded against the applicant merely because of his association with the persons who accompanied the parents to the school.

8. The learned Advocate places reliance upon the decision of the Hon'ble Supreme Court in case of ***Linda Sema*** *(Supra)*. He submits that the Supreme Court has explained the meaning of knowledge under Section 19(1) and has held that mere presence during a subsequent verification exercise is not sufficient to attract prosecution under Section 21. He submits that the learned Special Judge has failed to examine whether the material against the

applicant satisfies the requirements of the said provisions.

9. The learned APP opposes the revision. He submits that Section 19(1) casts a statutory obligation upon every person who has knowledge of the commission of an offence under the POCSO Act. According to him, the provision does not distinguish between persons holding official positions and ordinary citizens. The applicant admittedly received information from the parents and thereafter accompanied them to the school. He submits that the allegations concerning the teacher's apology and the subsequent advice given to the parents clearly indicate that the applicant had knowledge of the offence. Despite such knowledge, he did not report the incident to the police.

10. The learned Advocate for respondent No.2 submits that the informant and her family were in a vulnerable position and had approached the applicant and other villagers with the expectation that they would assist them. Instead, according to her, the applicant and the other persons discouraged them from lodging a police complaint. She invites attention to the statement of Upendra, a relative of the informant and submits that the allegations of pressure are supported by the material collected during investigation. According to her, the applicant cannot escape

the statutory obligation merely because he was not the first person to whom the child disclosed the incident.

11. I have considered the rival submissions. The question involved requires examination of the nature and extent of the obligation created by Section 19(1), the circumstances in which its breach attracts punishment under Section 21(1), and the distinction between a person who has acquired knowledge of the commission of an offence and a person who is merely present when information concerning an alleged offence is discussed. The answer must be found in the language of the statute, its object and the interpretation placed upon these provisions by the Supreme Court of India.

12. The POCSO Act was enacted to provide comprehensive protection to children against sexual assault, sexual harassment and pornography and to establish a child-friendly procedure for reporting, investigation and trial of such offences. The legislature recognised that sexual offences against children frequently remain concealed because of fear, shame, dependence upon adults, social pressure and the inability of children to understand or communicate the nature of the acts committed against them. The protection contemplated by the Act would remain incomplete if the

responsibility of bringing such offences to the notice of the authorities were left entirely upon the child. It is in this background that the legislature incorporated the requirement of mandatory reporting under Section 19 and prescribed punishment for its breach under Section 21.

13. Section 19(1) provides that any person, including a child, who has apprehension that an offence under the Act is likely to be committed or has knowledge that such an offence has been committed shall provide such information to the Special Juvenile Police Unit or the local police. The expression "any person" is of wide amplitude. The provision is not confined to parents, guardians, teachers, school authorities or persons occupying positions of responsibility. The obligation is attached to the acquisition of the requisite knowledge and not merely to the status or designation of the person concerned.

14. Section 21(1) makes failure to report the commission of an offence as required under Section 19(1) or Section 20 punishable with imprisonment which may extend to six months, or with fine, or with both. Section 21(2) separately deals with a person in charge of a company or institution who fails to report the commission of an offence under Section 19(1) in respect of a

subordinate under his control. Section 21(3) expressly excludes children from punishment under Section 21(1). These provisions indicate that the legislature intended to create a general obligation to report, while recognising a distinct responsibility of persons exercising control over institutions and an express exemption from penal liability for children.

15. The object of Section 19 is preventive as well as protective. The provision is intended not merely to facilitate punishment of the offender but also to secure timely intervention for the safety, medical examination, counselling and rehabilitation of the child. Prompt reporting enables the competent authorities to preserve evidence, prevent further abuse and take necessary protective measures. The duty to report, therefore, cannot be made dependent upon the person receiving information first to investigate or satisfy himself that the allegation is true. The Act entrusts investigation to the competent authorities and not to private individuals or institutions.

16. At the same time, the obligation created by Section 19 and the criminal liability prescribed by Section 21 must be understood as distinct legal concepts. Section 19 creates a statutory duty, whereas Section 21 prescribes punishment for

failure to discharge that duty. Before criminal liability can arise, there must be material showing that the person concerned acquired knowledge of the commission of an offence under the Act and failed to report it in the manner contemplated by law. The expression "any person" cannot be read independently of the requirement of knowledge. Otherwise, every person who happened to be present during a conversation concerning an alleged offence could be exposed to prosecution without any examination of the information communicated to him.

17. The meaning of the expression "has knowledge that such an offence has been committed" has been considered by the Supreme Court in case of ***Linda Sema*** *(supra),* decided on 9th July, 2026. In that case, the Supreme Court examined the liability of school authorities and other members of the institution for failure to report an incident of sexual assault upon a minor child. The Court considered whether knowledge under Section 19 necessarily required personal perception of the commission of the offence or whether it could arise from information received from the victim.

18. The Supreme Court held that knowledge contemplated under Section 19 is not confined to information acquired through one's own senses. It includes awareness arising from credible

information concerning the commission of an offence. The Court further held that where a child capable of communicating the incident directly informs a person that he or she has been subjected to sexual assault, such information must be treated as credible for the purpose of the reporting obligation. The person receiving such information cannot undertake a private investigation into its truthfulness and thereafter decide whether it should be reported. Such an exercise would defeat the object of the legislation.

19. The Supreme Court, however, did not hold that every person associated with the institution was liable for failure to report. The Apex Court separately examined the position of the other teachers and office-bearers who had not received direct information from the victim. The Court observed that their mere presence during the subsequent verification exercise was insufficient to sustain prosecution under Section 21of the Act. The allegation that they had attempted to prevent the information from spreading was also examined in the light of the material concerning their knowledge. The Court held that, in the absence of credible information establishing the requisite knowledge and sufficient material concerning their alleged participation in suppression of the offence, the proceedings against those persons

could not be sustained.

20. The distinction drawn by the Supreme Court is significant. The law does not permit a person who has received credible information about the commission of a sexual offence against a child to avoid the reporting obligation by undertaking an inquiry of his own. Equally, the law does not permit criminal liability to be imposed upon another person merely because he was present during a subsequent discussion or was associated with those who had received such information. The existence of the statutory duty must be examined with reference to the knowledge attributable to the person and the material showing failure to discharge that duty.

21. It is necessary to clarify that the decision in case of ***Linda Sema*** *(supra)* cannot be understood as laying down an absolute proposition that only the person who receives information directly from the child can incur liability under Section 21. The Supreme Court expressly recognised that knowledge may arise from credible information. Direct disclosure by the child is a circumstance which establishes credibility without requiring independent verification. It does not follow that credible information received through a parent, guardian or another person

is invariably excluded from Section 19. Such an interpretation would be inconsistent with the language of the provision and would defeat its protective purpose.

22. The nature of the disclosure, therefore, assumes importance. Where a child narrates an incident of sexual assault to a parent, teacher, guardian or another adult, the person receiving such information ordinarily acquires the knowledge contemplated by Section 19. Similarly, where a parent or another person communicates sufficiently clear and credible information about the commission of an offence to another adult, the statutory obligation may arise in the circumstances of that case. However, where the information is vague, uncertain or does not reasonably convey that an offence under the Act has been committed, the mere receipt of such information cannot automatically establish the knowledge required for prosecution. The question therefore must be considered upon the substance of the information and the surrounding circumstances.

23. The legislature has not made the reporting obligation dependent upon the person concerned occupying a position of authority. Nevertheless, the relationship between the recipient of information and the child, the circumstances in which the

information was communicated, and the nature of the recipient's subsequent conduct may be relevant in determining whether the statutory ingredients are disclosed. A teacher or Headmistress who receives a clear disclosure of sexual assault from a child stands in a materially different factual position from a person who is casually informed about a dispute and accompanies the parents to an institution at their request. The difference does not arise from an exemption based upon status, but from the nature of the information received and the evidence concerning the alleged failure to report.

24. It is equally necessary to distinguish between failure to report an offence and an allegation that a person prevented another from reporting it. Section 21(1) punishes failure to discharge the statutory reporting obligation. It does not expressly create a separate offence of threatening, intimidating or persuading another person not to lodge a complaint. Such conduct may constitute an offence under another penal provision if its ingredients are established. It may also be relevant evidence of deliberate non-reporting where the person concerned was himself under the statutory obligation. However, the allegation of pressure cannot be treated as a substitute for the essential ingredients of Section 21(1). The Court must examine whether the person had

the requisite knowledge and whether there is sufficient material to proceed against him for failure to report.

25. The submission that Section 21 requires proof of a separate intention to suppress the offence also needs clarification. The statutory provision does not expressly prescribe a distinct requirement of an intention to screen the offender from punishment. Such an additional ingredient cannot be imported into the provision. Nevertheless, where the prosecution seeks to establish criminal liability, the material must disclose the knowledge required by Section 19 and the failure contemplated by Section 21. The question whether such knowledge and failure are established must be examined in accordance with the ordinary principles governing criminal prosecution. A person cannot be prosecuted merely upon an assumption that, because information was discussed in his presence, he must necessarily have acquired the requisite knowledge and committed the offence of non-reporting.

26. The Supreme Court in ***State of Maharashtra v. Dr. Maroti, (2023) 4 SCC 298***, has emphasised the importance of strict compliance with the reporting obligations under the POCSO Act. The decision reinforces the legislative intention that offences

against children should not remain concealed and that persons having knowledge of such offences must discharge the obligation imposed by law. There can be no disagreement with that principle. However, strict compliance with a statutory duty and strict examination of the ingredients of the corresponding penal provision are not inconsistent concepts. The protective purpose of the legislation cannot dispense with the requirement that criminal liability must be founded upon the ingredients prescribed by the legislature.

27. It is in the light of these principles that the material against the present applicant requires examination. The prosecution case is that the victim initially disclosed the incident to her mother. The mother conveyed the information to her husband. The parents thereafter approached the school and subsequently contacted certain persons from the village, including the present applicant. The applicant accompanied them to the school on 4th August, 2025. It is not the prosecution case that the victim herself made any disclosure to the applicant. Nor is it alleged that the applicant had any previous knowledge of the incident before he was approached by the parents.

28. The First Information Report indicates that the parents

informed the villagers about the incident concerning their daughter. However, the material must be examined to ascertain the precise nature of the information communicated to the applicant and whether it was sufficient, in the circumstances, to establish the knowledge contemplated under Section 19. The applicant's participation in the visit to the school is not disputed. That circumstance establishes his association with the subsequent discussion, but it does not, by itself, resolve the question whether the material discloses the ingredients of the offence punishable under Section 21(1).

29. The prosecution relies upon the allegation that the concerned teacher apologised in the presence of the persons assembled at the school. This circumstance is undoubtedly relevant. However, the material must disclose the nature of the admission or apology and the knowledge which could reasonably be attributed to the applicant on that basis. The mere fact that an apology was tendered during a meeting cannot be considered in isolation from the information communicated, the persons present and the surrounding circumstances. The prosecution must establish sufficient grounds for proceeding against the applicant individually and cannot rest solely upon his presence as one of the villagers who accompanied the parents.

30. The further allegation is that the applicant and the other persons discouraged the parents from lodging a police complaint. The First Information Report contains an allegation of pressure against the persons who accompanied the informant. The prosecution also relies upon the statement of Upendra recorded during investigation. The applicant, on the other hand, has invited attention to the statement of the informant recorded before the Magistrate and the alleged omissions concerning his individual role. It is not necessary at this stage to determine which statement is ultimately truthful. Nevertheless, where the prosecution seeks to impose criminal liability upon an individual for failure to report, the Court must examine whether the material, taken at its face value, establishes sufficient grounds for proceeding against that particular individual.

31. In the present case, the allegation of pressure is substantially directed against the group of persons who accompanied the parents. The material does not sufficiently distinguish the applicant's individual conduct from that of the other persons present at the school. More importantly, the allegation of pressure is relied upon as though it independently constitutes the offence punishable under Section 21. That

approach overlooks the distinction between the statutory offence of failure to report and the separate allegation of discouraging another person from lodging a complaint. Even accepting the prosecution material at its face value, the Court must be satisfied that the ingredients of the particular offence for which the applicant is sought to be prosecuted are disclosed.

32. The learned APP submits that the applicant had knowledge of the offence and therefore ought to have reported it. The submission correctly states the general obligation under Section 19. However, the question in the present revision is not whether the legislature intended mandatory reporting or whether a person having credible knowledge of a POCSO offence is required to report it. Both propositions are clear. The question is whether the material collected during investigation furnishes sufficient grounds for proceeding against this applicant under Section 21(1). The statutory expression "any person" cannot relieve the prosecution of the obligation to establish the necessary factual foundation against the person sought to be prosecuted.

33. The learned Advocate for the applicant has also relied upon the statement of the Headmistress, which indicates that the parents had approached the school on 2nd August, 2025. It is

submitted that the school authorities had prior knowledge of the incident but were not prosecuted. The question whether the Headmistress had acquired the requisite knowledge under Section 19 must depend upon the nature of the information communicated to her. Her liability, if any, is a separate matter. The omission to prosecute another person cannot, by itself, furnish a ground for discharging the applicant. Equally, the prosecution cannot justify the applicant's prosecution merely by asserting that action may subsequently be taken against other persons. The sufficiency of the material against the applicant must be independently examined.

34. The learned Special Judge appears to have proceeded principally upon the circumstance that the applicant received information about the incident and did not himself approach the police. The distinction between receipt of information and acquisition of the knowledge contemplated by Section 19, as explained by the Supreme Court in case of ***Linda Sema*** *(supra)*, has not been adequately examined. Nor has the learned Special Judge sufficiently considered whether the material discloses the applicant's individual failure to report, as distinguished from his participation in the meeting and the allegation that the villagers discouraged the parents from lodging a complaint.

35. At the stage of discharge, the Court is not expected to conduct a detailed appreciation of evidence or determine whether the prosecution will ultimately succeed. The material collected during investigation must ordinarily be accepted at its face value. However, the Court is required to examine whether such material discloses the ingredients of the alleged offence and creates grave suspicion against the accused. A suspicion arising merely from association with other persons or presence during a discussion cannot take the place of grave suspicion concerning the commission of the particular offence.

36. In case of ***Linda Sema*** *(supra),* the Supreme Court upheld the discharge of other teachers and office-bearers despite allegations concerning their presence during the verification exercise and attempts to prevent information from spreading. The Court considered the absence of sufficient material establishing their requisite knowledge and participation in the alleged suppression. The principle emerging from that decision is that criminal liability under Section 21 must be examined individually and cannot be extended to every person associated with the subsequent handling of an incident. The prosecution must disclose sufficient material concerning the knowledge and failure attributable to the particular accused.

37. Applying that principle to the present case, the applicant was approached by the parents after the incident had already been disclosed to them and after they had approached the school. He accompanied them to the institution along with other villagers. The prosecution alleges that the persons present thereafter discouraged the parents from lodging a complaint. However, the material relied upon for the offence under Section 21 does not sufficiently establish an individualised factual foundation against the applicant beyond his receipt of information, participation in the meeting and association with the persons against whom the allegation of pressure has been made. In these circumstances, the material does not create the degree of grave suspicion required for proceeding against him for the offence punishable under Section 21(1).

38. It must be made clear that the present conclusion does not recognise any exemption from mandatory reporting in favour of social workers, village elders, elected representatives or their relatives. Nor does it mean that a person who receives credible information about a sexual offence through the parents of the victim is outside the operation of Section 19. The statutory obligation remains applicable to every adult who acquires the

requisite knowledge. The conclusion in the present case rests upon the insufficiency of the material establishing the applicant's individual criminal liability for the particular offence alleged against him.

39. The allegation that the parents were discouraged or pressurised from approaching the police is a serious matter. If such conduct is established and satisfies the ingredients of any other penal provision, the law provides appropriate remedies. However, the seriousness of an allegation cannot justify prosecution under a provision whose essential ingredients are not sufficiently disclosed. The Court cannot enlarge the scope of Section 21 merely because the conduct alleged against an accused is considered objectionable. The protective object of the POCSO Act must be achieved through faithful application of its provisions and not by extending criminal liability beyond the statutory requirements.

40. The interpretation adopted herein preserves both the object of the legislation and the safeguards inherent in criminal law. The reporting obligation under Section 19 is wide and must be complied with whenever the requisite knowledge is acquired. A person receiving a credible disclosure of sexual assault against a child cannot avoid that obligation by undertaking a private inquiry,

attempting a compromise or waiting for medical confirmation. At the same time, prosecution under Section 21 must be founded upon material disclosing the statutory ingredients against the particular accused. The law does not contemplate automatic prosecution of every person who comes into contact with the parents or participates in a subsequent discussion concerning the incident.

41. The learned Special Judge has failed to maintain this distinction while considering the application for discharge. The impugned order proceeds upon an insufficient examination of the nature of the information received by the applicant and the material necessary to establish the offence of non-reporting. In my view, the material collected during investigation does not furnish sufficient grounds for proceeding against the applicant for the offence punishable under Section 21(1) of the POCSO Act. The impugned order, therefore, cannot be sustained.

42. It is clarified that the discharge of the present applicant from the offence punishable under Section 21(1) of the POCSO Act shall not be construed as a finding upon the truth or otherwise of the allegation that the informant was threatened or prevented from lodging a complaint with the police. If, during the course of the trial against the remaining accused persons, evidence emerges

disclosing the involvement of the present applicant in any distinct offence punishable under law, it shall be open to the learned Special Judge to consider the exercise of powers under Section 358 of the BNSS, subject to the requirements and safeguards applicable to a person who has already been discharged. Such power shall be exercised only upon independent satisfaction of the statutory conditions and not merely upon reconsideration of the material on which the applicant has been discharged. Nothing observed in this judgment shall be treated as either a direction to proceed against the applicant or as an impediment to the lawful exercise of such jurisdiction by the Special Court.

43. Before parting with the matter, it is necessary to observe that the obligation to report sexual offences against children is an important safeguard intended to ensure that the victim receives timely protection and that the offender is brought before the law. Courts must remain conscious of the legislative purpose while interpreting Sections 19 and 21. Equally, the penal consequences prescribed by Section 21 require careful examination of the statutory ingredients. The object of protecting children is not advanced by indiscriminate prosecution of persons against whom the necessary ingredients are not disclosed. It is advanced by ensuring prompt reporting, effective investigation,

protection of victims and prosecution of persons whose conduct attracts the provisions of law.

44. For the reasons recorded above, the revision application deserves to be allowed. The observations made herein are confined to the material concerning the present applicant and the offence punishable under Section 21(1) of the POCSO Act. They shall not affect the prosecution against the principal accused or the other accused persons. The learned Special Judge shall proceed with the remaining case independently and in accordance with law.

ORDER

(i) The Criminal Revision Application is allowed.

(ii) The order dated 23rd July, 2026 passed by the learned Fast Track Special Judge (POCSO), Ahmednagar, below Exhibit 17 in Special Case No. 336 of 2025, is quashed and set aside insofar as it concerns the present applicant.

(iii) The application for discharge filed by the present applicant below Exhibit 17 is allowed.

(iv) The applicant, Rajendra Suryabhan Darade, is discharged from the offence punishable under Section 21(1) of the Protection of Children from Sexual Offences Act, 2012, in Special Case No. 336 of 2025.

(v) The proceedings against the remaining accused persons shall continue in accordance with law, uninfluenced by the observations made in this judgment concerning the individual liability of the present applicant.

(vi) The Criminal Revision Application stands disposed of accordingly.

(vii) Advocate Mrs. Sarika Maru Tekale is appointed to represent cause of respondent No.2. Hence, the Secretary, High Court Legal Services Sub-Committee, Aurangabad is requested to pay fees of appointed Advocate as per rules.

(HITEN S. VENEGAVKAR)
JUDGE

Tandale