INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed



www.ijlra.com

ISSN: 2582-6433

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ISSN: 2582-6433

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ISSN: 2582-6433

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ISSN: 2582-6433

PROTECTION OF CHILDREN FROM SEXUAL OFFENCES IN INDIA: AN ANALYSIS OF THE POCSO ACT, 2012, ITS IMPLEMENTATION AND EMERGING LEGAL CHALLENGES

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ABSTRACT

The Protection of Children from Sexual Offences Act, 2012 (POCSO) was conceived as a self-contained, gender-neutral and child-centric code that would remedy the inadequacy of the general penal law in addressing child sexual abuse in India. More than thirteen years after its commencement, the statute stands at a critical juncture. Official data show that registrations under the Act rose from 32,608 cases in 2017 to 69,191 in 2024, while the crime rate against children climbed to 42.3 per lakh child population. Yet the justice-delivery picture is sobering: trial pendency remained close to ninety per cent in 2022, the national conviction rate declined to about 29 per cent by 2023, and Fast Track Special Courts, despite achieving a disposal rate of 109 per cent in 2025, continued to carry a backlog of over 2.45 lakh rape and POCSO cases. This paper undertakes a doctrinal and empirical analysis of the POCSO framework, its 2019 amendment, its interface with the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023, and the jurisprudence of the Supreme Court up to November 2026. It examines four emerging challenges: the criminalisation of consensual adolescent relationships and the "Romeo–Juliet" debate catalysed by State of U.P. v. Anurudh (2026); the expanding use of Article 142 to temper mandatory sentences; the regulation of child sexual exploitation and abuse material (CSEAM) after Just Rights for Children Alliance v. S. Harish (2024); and the alleged misuse of the Act in matrimonial and custody disputes, alongside the rebuttable presumptions under sections 29–30. The paper finds that the law's protective architecture is sound but that its effectiveness is undermined by institutional deficits, rigid age-based liability and inconsistent judicial responses. It recommends a narrowly tailored close-in-age exception, a statutory sentencing guideline, strengthened victim-support infrastructure, technology-specific CSEAM provisions and a national POCSO data dashboard.

ISSN: 2582-6433

Keywords: POCSO Act, 2012; child sexual abuse; age of consent; Romeo–Juliet clause; Special Courts; CSEAM; Article 142; Bharatiya Nyaya Sanhita, 2023; victim compensation; child-friendly justice.

I. Introduction

Child sexual abuse is among the gravest violations of human dignity, and its consequences, physical, psychological and social, frequently endure well into adulthood.[1] India's first national study on the subject, commissioned by the Ministry of Women and Child Development in 2007, reported that more than half of the children surveyed had experienced one or more forms of sexual abuse, and that a large proportion of abusers were persons known to, or in a position of trust over, the child.[2] These findings exposed a deep structural gap in Indian criminal law. Before 2012, the Indian Penal Code, 1860 recognised only penile-vaginal rape of a female and the vague offence of "outraging the modesty of a woman", leaving male children, non-penetrative abuse and the exploitation of children in pornography largely outside the reach of the law.[3]

Parliament responded with the Protection of Children from Sexual Offences Act, 2012, which received presidential assent on 19 June 2012 and came into force on 14 November 2012.[4] The Act was framed in fulfilment of India's obligations under Article 15(3) of the Constitution, which permits special provisions for children, and under Articles 19 and 34 of the United Nations Convention on the Rights of the Child, 1989 (UNCRC), which India ratified on 11 December 1992.[5] Its Statement of Objects and Reasons expressly invokes the best interest of the child as the paramount consideration at every stage of the judicial process.[6]

The Act has since been amended in 2019 to introduce the death penalty for aggravated penetrative sexual assault and to define "child pornography";[7] supplemented by the POCSO

[1]D. Finkelhor, "The Prevention of Childhood Sexual Abuse" 19(2) *The Future of Children* 169 (2009).

[2]Ministry of Women and Child Development, Government of India, *Study on Child Abuse: India 2007* (Kriti, New Delhi, 2007).

[3]The Indian Penal Code, 1860 (Act 45 of 1860), ss. 354, 375, 377 (as they stood prior to the Criminal Law (Amendment) Act, 2013).

[4]The Protection of Children from Sexual Offences Act, 2012 (Act 32 of 2012) (hereinafter "POCSO Act").

[5]The Constitution of India, arts. 15(3), 21, 39(e) and (f); Convention on the Rights of the Child, 20 November 1989, 1577 UNTS 3, arts. 3, 19, 34; *see also* Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 25 May 2000, 2171 UNTS 227.

[6]Department-related Parliamentary Standing Committee on Human Resource Development, Rajya Sabha, *240th Report on the Protection of Children from Sexual Offences Bill, 2011* (December 2011).

[7]The Protection of Children from Sexual Offences (Amendment) Act, 2019 (Act 25 of 2019), ss. 2–8 (in force from 16 August 2019).

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Rules, 2020;[8] and now operates alongside the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaced the Indian Penal Code and the Code of Criminal Procedure with effect from 1 July 2024.[9] The period 2024–2026 has witnessed an unprecedented burst of judicial activity: the Supreme Court has extended criminal liability to the viewing and constructive possession of child sexual exploitation and abuse material, suspended or set aside mandatory sentences under Article 142 in cases involving adolescent relationships, urged Parliament to consider a "Romeo–Juliet" clause, and clarified that the reverse burden under sections 29 and 30 of the Act is rebuttable. Against this backdrop, a fresh and comprehensive appraisal is both timely and necessary.

A. Research Problem

The central problem addressed by this paper is the widening gap between the protective promise of the POCSO Act and its delivery on the ground. Rising registration, a mounting trial backlog and a declining conviction rate coexist with growing judicial and scholarly concern that a statute designed to protect children is, in a significant class of cases, criminalising adolescents and being deployed as an instrument in private disputes.

B. Research Questions

1. To what extent does the substantive and procedural architecture of the POCSO Act conform to constitutional and international child-rights standards?
2. What do official and empirical data reveal about the implementation of the Act, particularly in relation to pendency, conviction and victim support?
3. How has the Supreme Court responded, up to November 2026, to the challenges of adolescent consent, CSEAM, misuse and sentencing rigidity?
4. What legislative and institutional reforms are required to reconcile effective child protection with adolescent autonomy and fair-trial guarantees?

C. Hypotheses

The paper tests two hypotheses: **(H1)** that the principal deficits of the POCSO regime are implementational rather than normative; and **(H2)** that the absence of a statutory close-in-age exception has produced inconsistent, discretion-driven judicial outcomes that undermine both legal certainty and the rule of law.

D. Research Methodology

The study adopts a mixed doctrinal and socio-legal methodology. Primary sources

[8]The Protection of Children from Sexual Offences Rules, 2020, G.S.R. 161(E), notified on 9 March 2020.

[9]The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023); The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023).

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include the POCSO Act and Rules, allied legislation, Supreme Court and High Court decisions, Law Commission reports and parliamentary material. Secondary quantitative data are drawn principally from the National Crime Records Bureau's *Crime in India* series (2017–2024), Union Ministry of Law and Justice data on Fast Track Special Courts, and published empirical studies. The data are descriptively analysed and visualised. The study is limited by the known constraints of police-recorded data, including under-reporting and changes in classification following the transition to the BNS.[10]

II. Literature Review

The scholarship on POCSO may be organised around five themes: legislative design, implementation and the functioning of Special Courts, adolescent sexuality and consent, the victim's experience of the criminal process, and technology-facilitated abuse.

A. Legislative Design and the Policy Debate

The Justice J.S. Verma Committee, constituted after the December 2012 Delhi gang rape, endorsed a comprehensive and gender-neutral approach to sexual offences but cautioned against raising the general age of consent from sixteen to eighteen, a recommendation that Parliament did not adopt in the Criminal Law (Amendment) Act, 2013.[11] The question was revisited by the 22nd Law Commission, which, in its 283rd Report, declined to lower the age of consent under POCSO but recommended that Special Courts be empowered to exercise "guided judicial discretion" in sentencing where there is tacit approval by a child aged sixteen to eighteen.[12] Scholars have criticised both the rigidity of strict liability and the paucity of legislative debate when the age threshold was raised.[13]

B. Implementation and Special Courts

The most detailed empirical work on Special Courts was undertaken by the Centre for Child and the Law, National Law School of India University, whose multi-State studies documented delays in recording evidence, inadequate child-friendly infrastructure, infrequent

[10]The NCRB itself attributes part of the 6% decline in overall crime registration in 2024 to the transition from the IPC to the BNS; *see* "Crime Rate 'Fell' 6% in 2024, NCRB Attributes Dip to Change From IPC to BNS" *The Wire*, 7 May 2026.

[11]*Report of the Committee on Amendments to Criminal Law* (Chairperson: Justice J.S. Verma) (23 January 2013), ch. 3.

[12]Law Commission of India, *Report No. 283 on Age of Consent under the Protection of Children from Sexual Offences Act, 2012* (September 2023).

[13]Binny Yadav, "Teenagers in Love Are Not Criminals: POCSO and the Adolescent Accused" *India Legal*, August 2025; *see also* Hritwik Ravi, "Childhood, Consent, and Privacy: A Case Comment on *In Re: Right to Privacy of Adolescents*" *NLUO Law Journal* 144 (2025).

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award of compensation and high rates of victims turning hostile.[14] Vidhi Centre for Legal Policy's decadal study, using e-Courts data, similarly reported long average disposal times and an acquittal rate considerably higher than the conviction rate.[15] Studies by the Kailash Satyarthi Children's Foundation and the India Child Protection Fund projected that, at prevailing disposal rates, certain States would take decades to clear their backlogs, and recorded over 2.43 lakh POCSO cases pending in Fast Track Special Courts as on 31 January 2023.[16] HAQ: Centre for Child Rights has emphasised that, notwithstanding the one-year timeline in section 35, single-judge Special Courts in Delhi carried several hundred cases each.[17]

C. Adolescent Relationships

A distinct strand of literature has documented the prevalence of "romantic" cases, in which the complainant is the parent of an adolescent girl who has eloped with or entered into a consensual relationship with a slightly older boy. Enfold Proactive Health Trust's analysis of judgments from Assam, Maharashtra and West Bengal between 2016 and 2020 found that close to a quarter of POCSO cases fell into this category, a large majority of which ended in acquittal.[18] Commentators argue that the mandatory reporting duty under section 19 also deters adolescents from seeking contraceptive, abortion and mental-health services.[19]

D. The Victim in the Criminal Process

Ethnographic and doctrinal work on rape trials, notably Pratiksha Baxi's account of the "public secrets" of the trial courtroom, shows how procedural safeguards on paper are frequently negated by courtroom culture.[20] Mrinal Satish's work on sentencing discretion in rape cases provides an important lens for assessing the turn towards mandatory minimums and the death penalty under the 2019 amendment.[21]

E. Technology-facilitated Abuse

[14]Centre for Child and the Law, NLSIU, *Implementation of the POCSO Act, 2012 by Special Courts: Challenges and Issues* (NLSIU, Bengaluru, 2018).

[15]Vidhi Centre for Legal Policy and Data Evidence for Justice Reform (World Bank), *A Decade of POCSO: Developments, Challenges and Insights from Judicial Data* (November 2022).

[16]Kailash Satyarthi Children's Foundation, *Status of POCSO Cases in India: 2017–2019* (2021); India Child Protection Fund, *Justice Awaits: An Analysis of the Efficacy of Justice Delivery Mechanisms in Cases of Child Sexual Abuse* (2023).

[17]HAQ: Centre for Child Rights, *Children Cannot Wait* (New Delhi, September 2024).

[18]Enfold Proactive Health Trust, *Romantic Cases under the POCSO Act: An Analysis of Judgments of Special Courts in Assam, Maharashtra and West Bengal* (2022); *see also* "Why SC wants Govt to consider a Romeo-Juliet Exception for POCSO Act" *The Indian Express*, 17 January 2026.

[19]*X* v. *Principal Secretary, Health and Family Welfare Department, Govt. of NCT of Delhi*, (2023) 9 SCC 433, paras 132–135 (directing that the identity of a minor need not be disclosed in a section 19 report made in the context of a medical termination of pregnancy).

[20]Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (Oxford University Press, New Delhi, 2014).

[21]Mrinal Satish, *Discretion, Discrimination and the Rule of Law: Reforming Rape Sentencing in India* (Cambridge University Press, Cambridge, 2017).

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Following *Just Rights for Children Alliance* v. *S. Harish*, commentators have welcomed the Court's preference for the expression "child sexual exploitation and abuse material" and its expansive reading of "possession", while questioning whether criminalising viewing through a doctrine of constructive possession is consistent with the text of section 15.[22]

F. Research Gap

Existing studies are either pre-2023 in their data or focus on a single dimension of the problem. There is no integrated study that combines the NCRB data for 2023 and 2024, the Fast Track Special Court figures for 2025–2026 and the significant body of Supreme Court jurisprudence delivered between January and October 2026. This paper seeks to fill that gap.

III. Analysis and Discussion

A. The Normative Architecture of the POCSO Act

The Act defines a "child" as any person below eighteen years of age, without distinction of gender.[23] It creates a graded set of offences: penetrative sexual assault (sections 3 and 4), aggravated penetrative sexual assault (sections 5 and 6), sexual assault (sections 7 and 8), aggravated sexual assault (sections 9 and 10), sexual harassment (sections 11 and 12), and the use of a child for pornographic purposes and the storage of pornographic material involving a child (sections 13 to 15). Abetment and attempt are separately punishable.[24] Following the 2019 amendment, penetrative sexual assault on a child below sixteen carries a minimum of twenty years' imprisonment, and aggravated penetrative sexual assault carries a minimum of twenty years, extendable to imprisonment for the remainder of natural life or death.[25] Figure 1 maps this architecture.

[22]"Criminalising Viewing of Child Pornography: A Critique of the Supreme Court Reasoning in *S. Harish*" *The Leaflet*, 2024; Shri Venkatesh and Nihal Bhardwaj, "Supreme Court's Landmark Ruling on Child Pornography: Legal Shift amid Gaps in Recommended Policies" *Bar & Bench*, 2024.

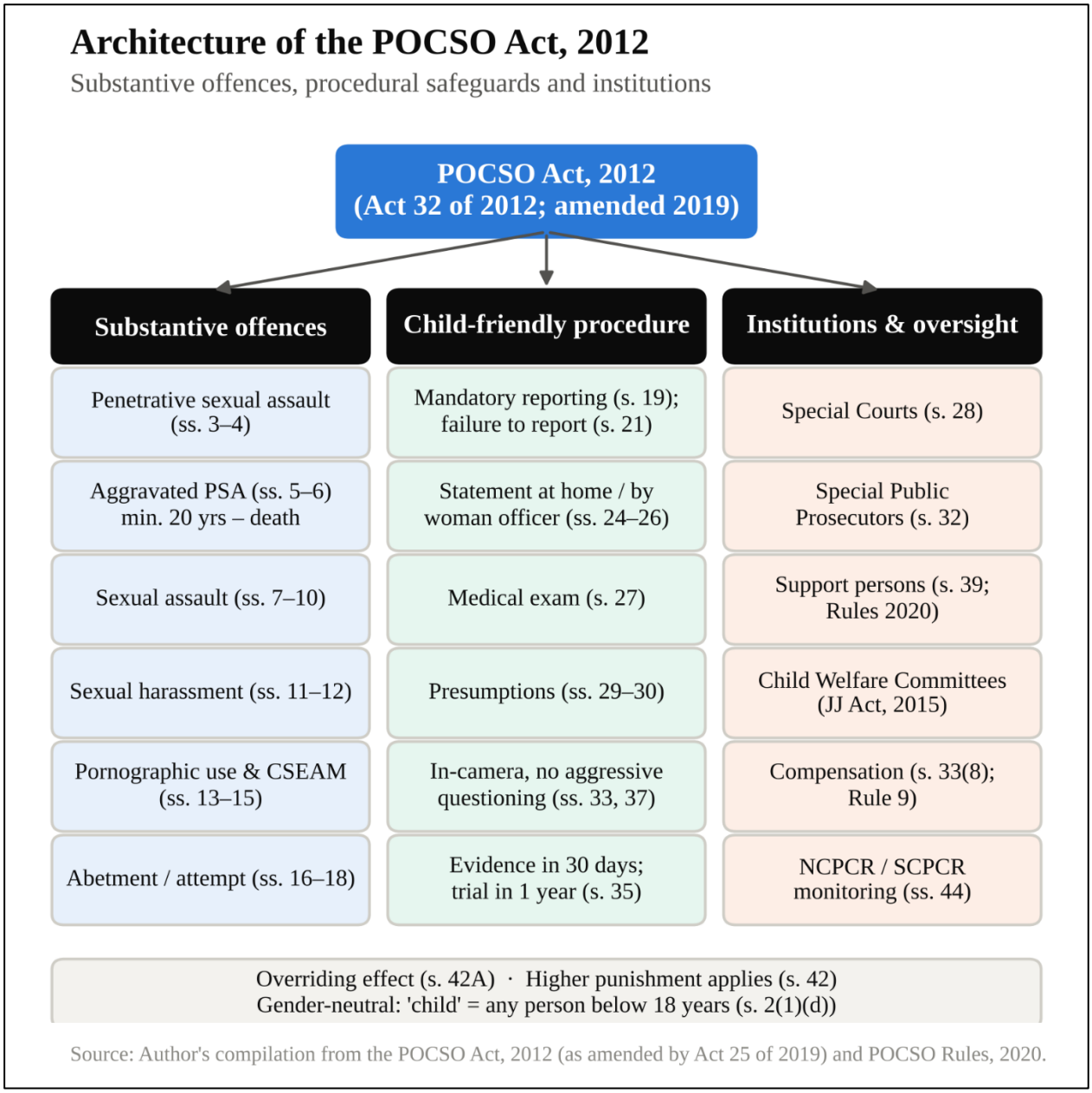
[23]POCSO Act, s. 2(1)(d).

[24]*Id.*, ss. 16–18.

[25]*Id.*, ss. 4(2) and 6(1), as substituted by Act 25 of 2019.

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Figure 1: Architecture of the POCSO Act, 2012



Three design choices distinguish the Act from the general penal law. *First*, it imposes a mandatory duty on any person, including medical professionals and institutional heads, to report an apprehended offence, with penal consequences for non-reporting.[26] *Second*, it prescribes a child-friendly procedure: the child's statement is to be recorded at the child's residence or a place of choice, preferably by a woman police officer not below the rank of sub-inspector; the child is not to be detained in a police station overnight; evidence is to be recorded

[26]POCSO Act, ss. 19–21; *see Shankar Kisanrao Khade* v. *State of Maharashtra*, (2013) 5 SCC 546 (on the duty of institutions to report child sexual abuse).

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within thirty days of cognizance and the trial completed within one year; and the trial is to be held in camera without aggressive questioning.[27] *Third*, it reverses the burden of proof by raising presumptions as to the commission of certain offences and as to the culpable mental state of the accused.[28] The Act also overrides inconsistent laws and, where an act is punishable under both POCSO and the general penal law, mandates the higher punishment.[29]

B. Interface with the BNS and BNSS

The new criminal codes broadly preserve the POCSO architecture while introducing parallel child-specific provisions. Section 63 of the BNS retains eighteen as the age below which consent to sexual intercourse is immaterial, and Exception 2 now protects a husband only where the wife is not under eighteen, codifying the outcome in *Independent Thought* v. *Union of India*.[30] Section 65 provides enhanced punishment, including death, for rape of a woman under twelve, and section 70(2) addresses gang rape of a woman under eighteen.[31] The BNSS requires investigation of rape of a child to be completed within two months and mandates audio-video recording of the victim's statement.[32] The coexistence of overlapping offences demands careful charging practice; by virtue of section 42 of POCSO, the higher punishment will apply. A notable asymmetry persists: BNS offences of rape remain gender-specific as to the victim, whereas POCSO is gender-neutral, making the latter the only comprehensive vehicle for prosecuting sexual offences against boys.

C. Implementation: An Empirical Appraisal

1. Registration Trends

Registrations under the Act have risen steadily, from 32,608 cases in 2017 to 47,335 in 2019, 53,874 in 2021, 63,414 in 2022, 67,694 in 2023 and 69,191 in 2024, an increase of approximately 112 per cent over eight years (Figure 2).[33] In 2023, POCSO cases accounted for 38.2 per cent of all crimes against children; in 2024, for 36.9 per cent (Figure 4).[34] The rate of all crimes against children per lakh child population rose from 28.9 in 2020 to 42.3 in 2024 (Figure 3).

[27]POCSO Act, ss. 24–27, 33, 35–37.

[28]*Id.*, ss. 29–30.

[29]*Id.*, ss. 42, 42A.

[30]BNS, s. 63, Exception 2; *Independent Thought* v. *Union of India*, (2017) 10 SCC 800.

[31]BNS, ss. 65, 70(2).

[32]BNSS, ss. 176, 183, 193(2).

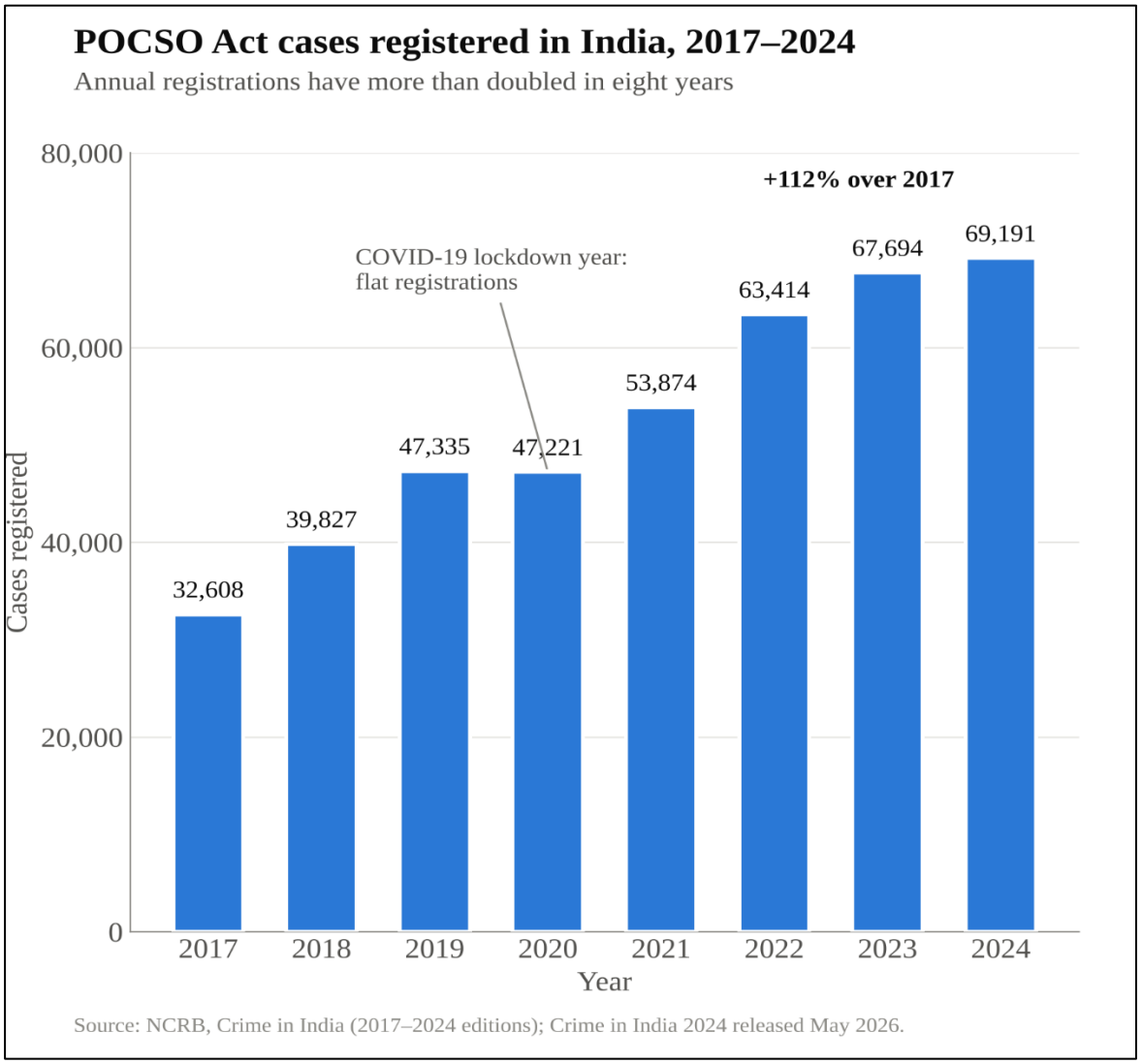
[33]National Crime Records Bureau, Ministry of Home Affairs, *Crime in India* (2017–2024 editions); for 2017–2020 figures, *see* HAQ: Centre for Child Rights, *Crime in India 2020: Crimes against Children* (2021).

[34]NCRB, *Crime in India 2023* (released 30 September 2025); NCRB, *Crime in India 2024* (released May 2026), as reported in "Crime Rate 'Fell' 6% in 2024", *supra* note 10.

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These figures admit of two readings. A rise in registration may signal improved awareness, the effect of mandatory reporting and greater confidence in the police, rather than an absolute increase in abuse.[35] Equally, the persistent growth in absolute numbers, even after the dip in overall crime registration attributed to the BNS transition, suggests that sexual violence against children remains pervasive. The two readings are not mutually exclusive, and the stagnation in 2020 is plausibly explained by the reduced visibility of children during COVID-19 lockdowns rather than by any real reduction in abuse.

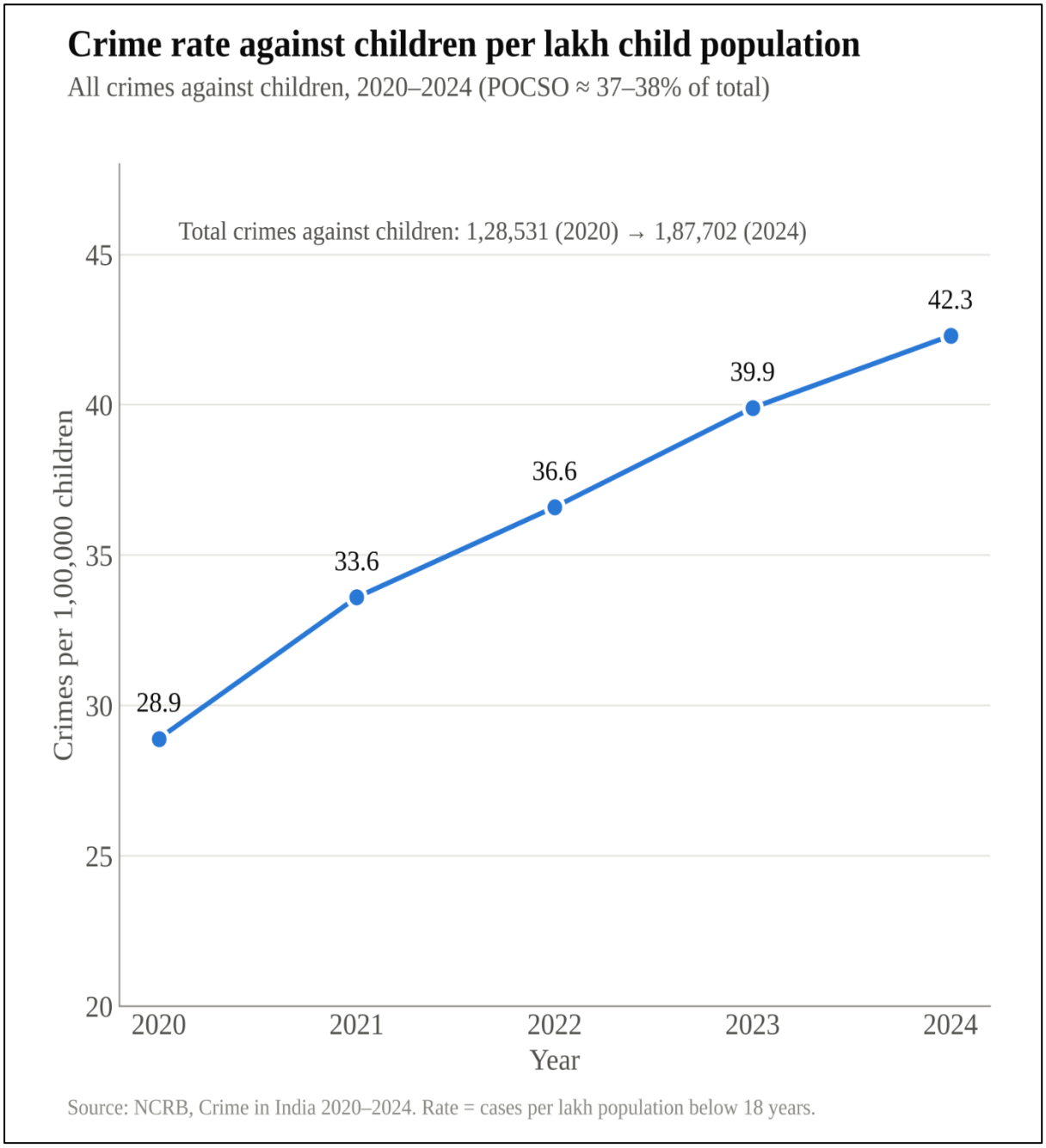
Figure 2: POCSO Act cases registered in India, 2017–2024



[35]"An Increase in the Number of Crimes Does Not Necessarily Mean India Has Become More Hostile Against Its Children" *Down To Earth*, October 2025.

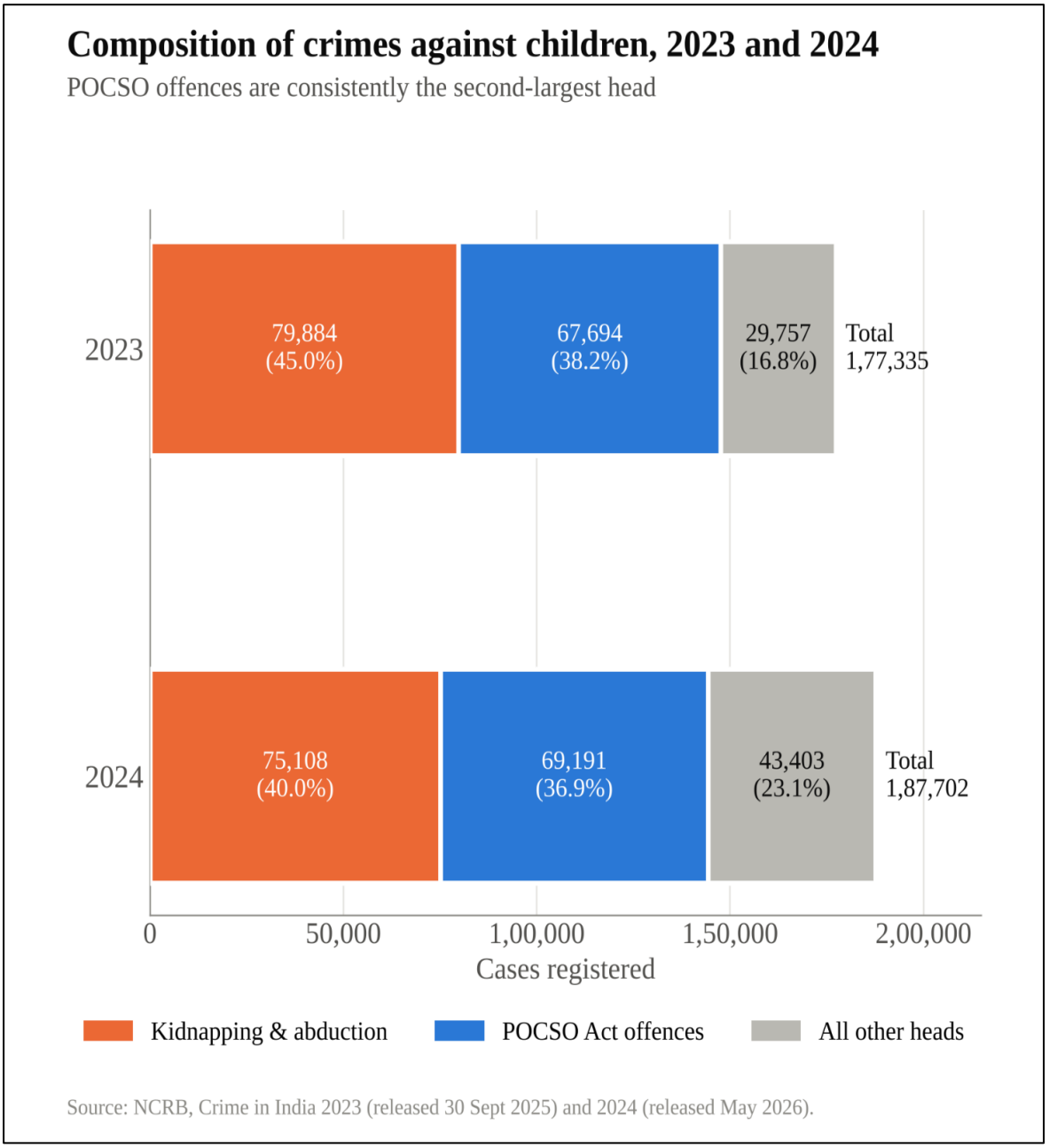
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Figure 3: Crime rate against children per lakh child population, 2020–2024



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Figure 4: Composition of crimes against children, 2023 and 2024



2. Pendency and the Fast Track Special Courts

The most serious implementation failure is delay. Cases pending trial at the end of the year rose from 84,143 in 2017 to 1,08,129 in 2018 and 1,33,068 in 2019.[36] By 2022, 2,39,188 of 2,68,038 cases sent for trial were pending, a pendency rate of 89.2 per cent, and pendency reached approximately 2.62 lakh by 2023 (Figure 5).[37] This is despite the Supreme Court's

[36]Ministry of Women and Child Development, reply to Parliament, reported in "Over 47,000 Cases Registered under POCSO, More than 1.3 Lakh Cases Pending in 2019: Centre" *SabrangIndia*, 2021.

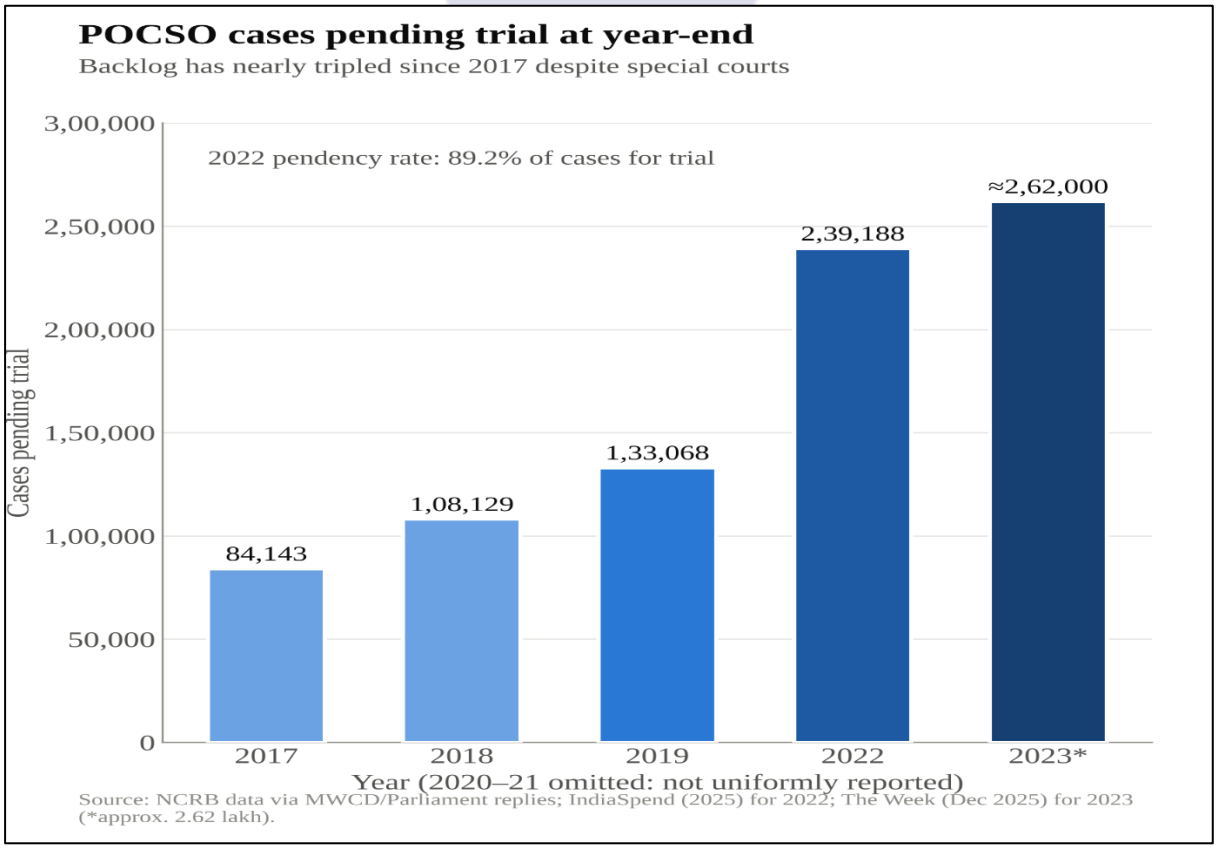
[37]Kumarsinh Dabhi, "High Trial Pendency in Fast-track Special Courts Set Up for Child Sexual Abuse Cases" *IndiaSpend*, 25 February 2025; "Beyond 'Tareek pe Tareek': India's POCSO Courts Turned the Corner This Year"

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direction in *In Re: Alarming Rise in the Number of Reported Child Rape Incidents* that every district with more than one hundred pending POCSO cases should have a dedicated Special Court funded by the Union.[38]

The centrally sponsored Fast Track Special Courts (FTSC) scheme, launched in October 2019 and funded through the Nirbhaya Fund, has improved throughput. As of 30 April 2026, 775 FTSCs, including 398 exclusive POCSO courts, were functional in 29 States and Union Territories against a target of 790.[39] In 2025, for the first time, courts disposed of more POCSO cases (87,754) than were freshly registered (80,320), a disposal rate of 109 per cent.[40] Nevertheless, pending cases before FTSCs stood at 2,45,579 at the end of 2025 (Figure 6). Clearing a backlog of this magnitude at a marginal surplus of roughly 7,000 cases a year would take several decades.

Figure 5: POCSO cases pending trial at year-end



The Week, 20 December 2025.

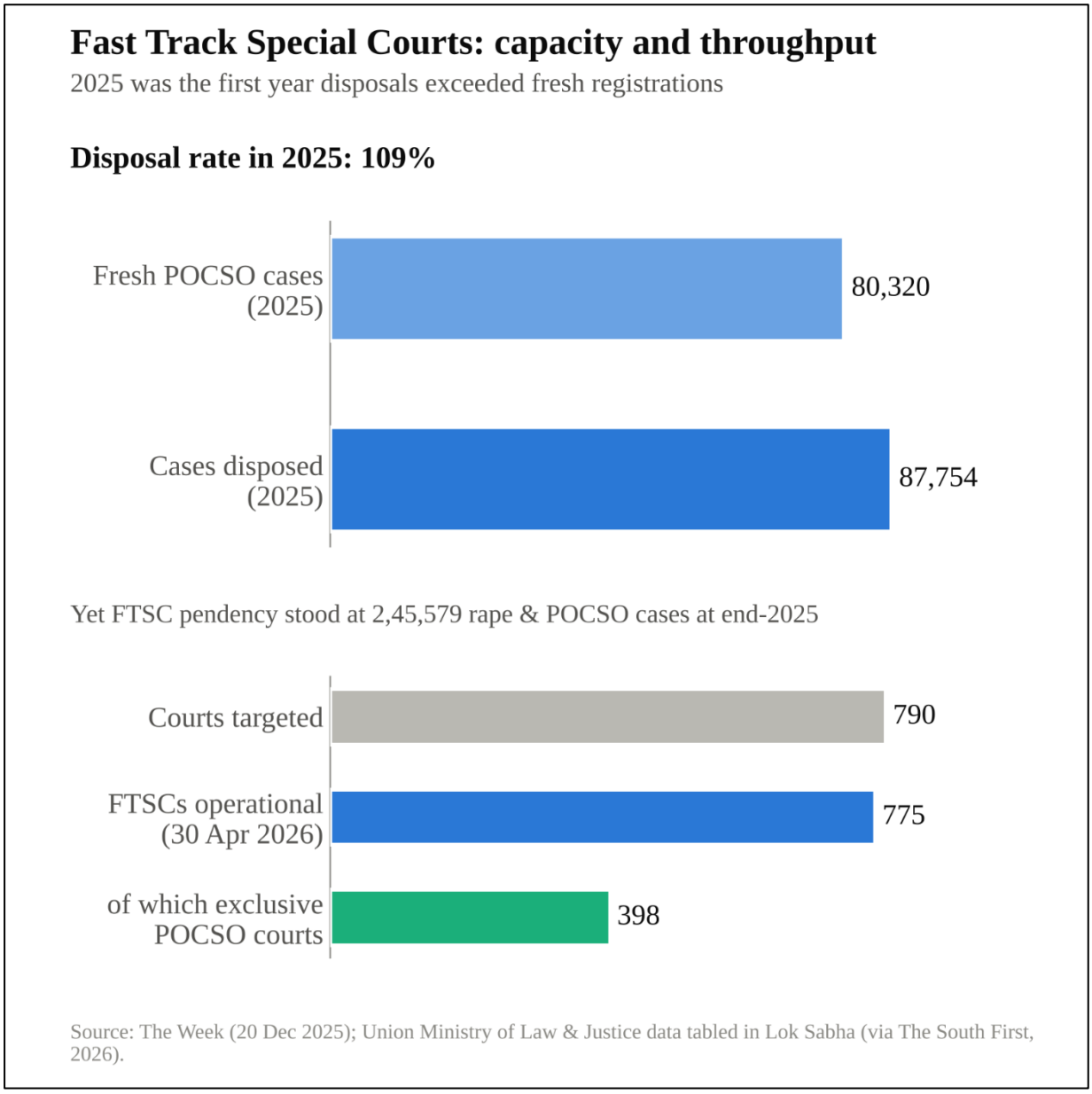
[38]*In Re: Alarming Rise in the Number of Reported Child Rape Incidents*, Suo Motu W.P. (Crl.) No. 1 of 2019, order dated 25 July 2019 (Supreme Court of India); *see also Alakh Alok Srivastava* v. *Union of India*, (2018) 17 SCC 291.

[39]Union Ministry of Law and Justice, data tabled in the Lok Sabha, reported in "Fast-track Courts Fail to Deliver Timely Justice to Rape and POCSO Survivors; Case Backlog Reaches 2,45,579" *The South First*, 2026.

[40]"Beyond 'Tareek pe Tareek'", *supra* note 37.

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Figure 6: Fast Track Special Courts: capacity and throughput



3. The Conviction Paradox

Faster disposal has not translated into more convictions. The national conviction rate in POCSO trials rose from 29.6 per cent in 2016 to 39.6 per cent in 2020, but subsequently declined to about 29 per cent in 2023, with FTSCs averaging only about 19 per cent (Figure 7).[41] Three explanations emerge from the literature. The first is the large share of romantic cases in which the "victim" refuses to support the prosecution. The second is the high incidence of witnesses, including parents, turning hostile in intra-familial abuse cases under social and

[41]"Data: POCSO Cases Increased by 30% in 5 Years while Pendency Rate in Courts Crossed 94%" *Factly*, 2022; "Faster is Not Fairer in POCSO Case Clearance Numbers" *The Hindu*, 12 January 2026.

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economic pressure. The third is investigative weakness, especially delays in forensic analysis and failures in age determination. The low conviction rate therefore cannot be read as a simple measure of false complaints; it is the product of a system that conflates very different kinds of cases under a single strict-liability regime.

4. Victim Support and Compensation

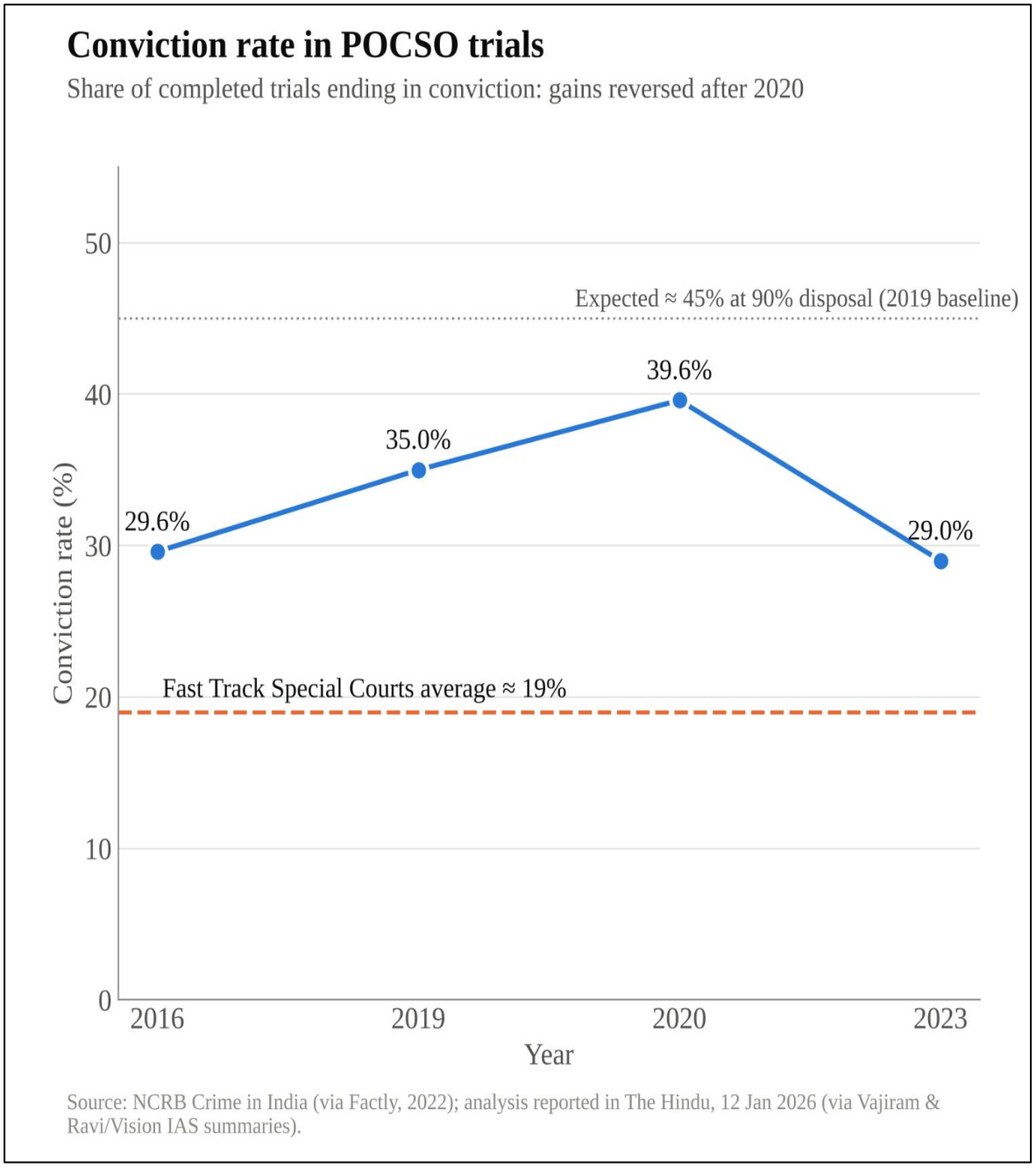
Section 33(8) of the Act and Rule 9 of the POCSO Rules empower Special Courts to award interim and final compensation, and section 39 contemplates support persons to assist the child through the process. In *Bachpan Bachao Andolan* v. *Union of India*, the Supreme Court found the appointment of support persons to be sporadic and directed the Union to frame model guidelines, which were subsequently issued by the Ministry of Women and Child Development.[42] In *In Re: Right to Privacy of Adolescents*, the Court went further, holding that the State's failure to extend care, counselling and rehabilitation to an adolescent victim was itself a violation of her rights under Article 21, and directed States to implement section 19(6) of POCSO and sections 30 to 43 and 46 of the Juvenile Justice (Care and Protection of Children) Act, 2015.[43] Figure 8 juxtaposes the statutory pathway with the gaps observed at each stage.

[42]*Bachpan Bachao Andolan* v. *Union of India*, W.P. (C) No. 427 of 2022, order dated 18 August 2023 (Supreme Court of India); Ministry of Women and Child Development, *Model Guidelines under Section 39 of the Protection of Children from Sexual Offences Act, 2012* (2024).

[43]*In Re: Right to Privacy of Adolescents*, 2025 INSC 778 : [2025] 7 SCR 216, decided on 23 May 2025 (A.S. Oka and Ujjal Bhuyan, JJ.).

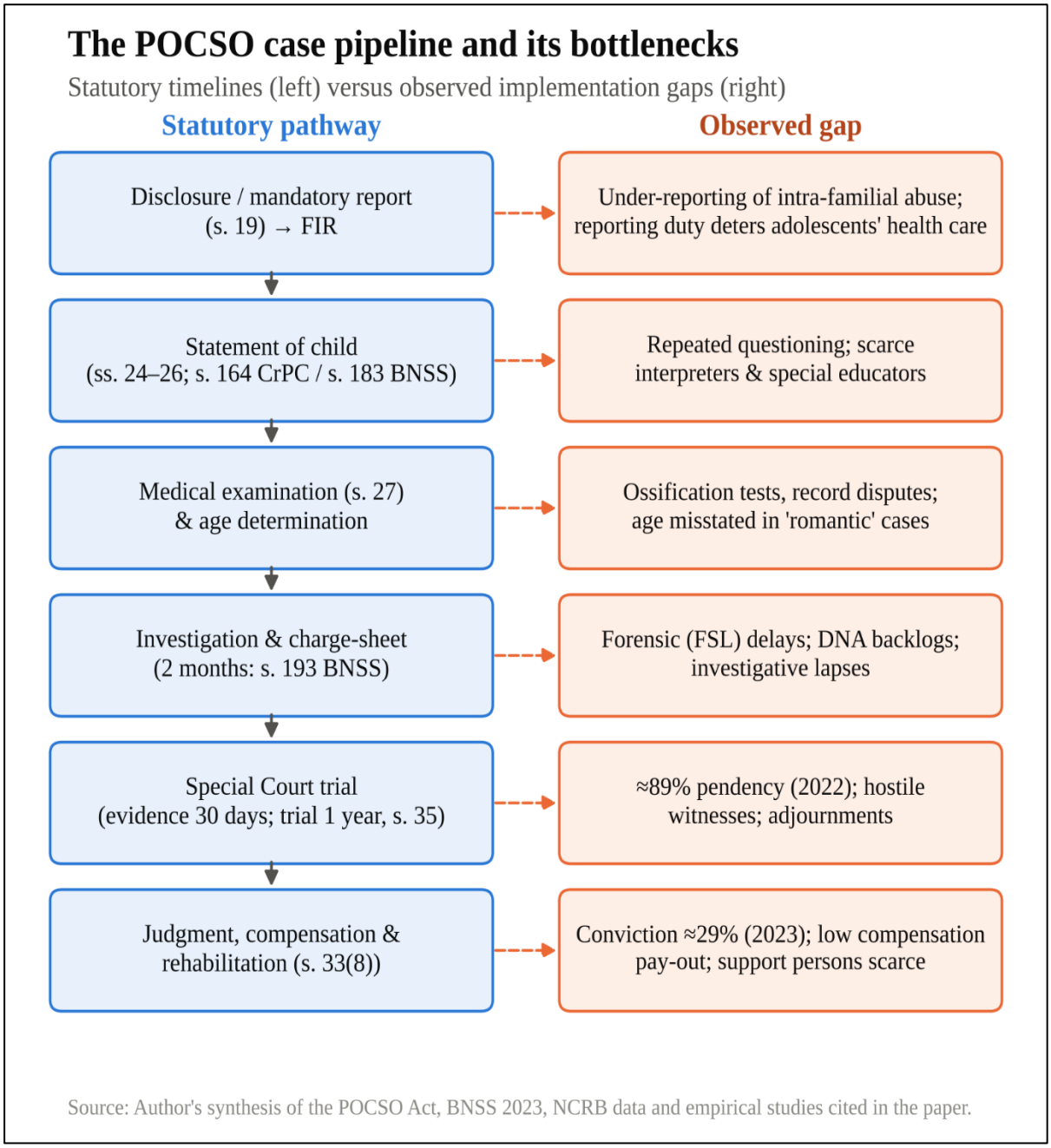
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Figure 7: Conviction rate in POCSO trials



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Figure 8: The POCSO case pipeline and its bottlenecks



D. Judicial Interpretation: Landmark Decisions

The Supreme Court has played a decisive role in shaping the content of the POCSO regime. Table 1 summarises the principal decisions, and Figure 9 locates them on a timeline alongside legislative milestones.

Table 1: Landmark Supreme Court decisions on the POCSO Act

Case	Citation	Issue	Holding / significance
Independent Thought	(2017) 10 SCC	Marital-rape	Exception read down;

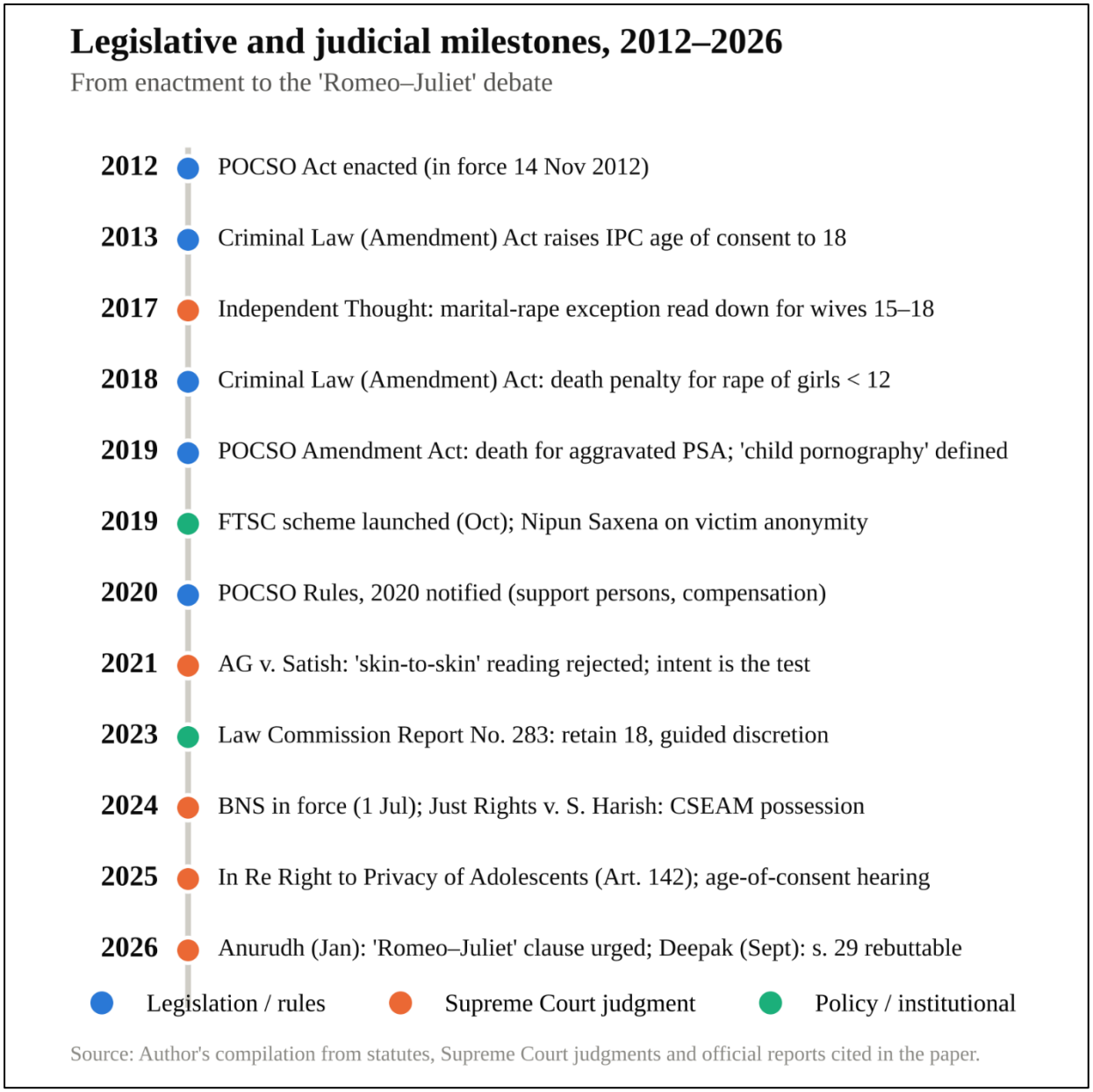
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Case	Citation	Issue	Holding / significance
v. *Union of India*	800	exception for wives aged 15–18	harmonised IPC with POCSO; now codified in BNS s. 63
Eera v. *State (NCT of Delhi)*	(2017) 15 SCC 133	Whether 'child' includes mental age	Biological age alone governs s. 2(1)(d)
Nipun Saxena v. *Union of India*	(2019) 2 SCC 703	Identity of child victims	Absolute bar on direct/indirect disclosure; One Stop Centres
Attorney General for India v. *Satish*	(2022) 5 SCC 545	'Skin-to-skin' contact under s. 7	Sexual intent, not skin contact, is decisive
Just Rights for Children Alliance v. *S. Harish*	2024 INSC 716	Viewing / possession of CSEAM	Constructive possession punishable under s. 15; 'CSEAM' terminology
In Re: Right to Privacy of Adolescents	2025 INSC 778	Sentencing in adolescent relationship case	Conviction restored; sentence not imposed under Art. 142; State failure violates Art. 21
State of U.P. v. *Anurudh*	2026 INSC 47	Age determination at bail; misuse	Union urged to consider Romeo–Juliet clause
Maruthupandi v. *State*	2026 LiveLaw (SC) 614	Conviction after marriage of parties	Conviction set aside under Art. 142; not a precedent
Bhaskar Paul v. *State of W.B.*	2026 SCC OnLine SC 1833	Corporal punishment by teacher	No POCSO offence absent sexual intent
Deepak in JC v. *State (NCT of Delhi)*	2026 SCC OnLine SC 1914	Nature of ss. 29–30 presumptions	Rebuttable; foundational facts must be proved; fair trial prevails
X v. *Y*	2026 SCC OnLine SC	Custody where father faces POCSO	Custody to accused parent unwarranted after charge-

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Case	Citation	Issue	Holding / significance
	1979	trial	sheet

Figure 9: Legislative and judicial milestones, 2012–2026



1. Purposive Construction: Satish and Independent Thought

In *Attorney General for India* v. *Satish*, a three-Judge Bench set aside a Bombay High Court ruling that groping a child through clothing did not amount to "sexual assault" under section 7 because there was no "skin-to-skin" contact. The Court held that the most important ingredient of the offence is sexual intent, not physical contact, and that a restrictive reading

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would defeat the object of the Act.[44] The same purposive logic animated *Independent Thought*, in which the Court read down Exception 2 to section 375 of the IPC so that sexual intercourse with a wife aged between fifteen and eighteen constitutes rape, harmonising the penal code with POCSO.[45] The Court has, however, refused to stretch the Act to cover the "mental age" of an adult with intellectual disability, holding in *Eera* v. *State (NCT of Delhi)* that the definition of "child" is tied to biological age.[46]

The insistence on sexual intent has recently cut in favour of the accused as well. In *Bhaskar Paul* v. *State of West Bengal*, the Court quashed POCSO proceedings against a teacher accused of beating students and touching their backs and necks, holding that inappropriate conduct or corporal punishment without the requisite sexual intent cannot sustain a prosecution under sections 7 and 10.[47] *Satish* and *Bhaskar Paul* are two faces of the same principle: sexual intent is both necessary and, where contact is proved, sufficient.

2. Victim Identity and Child-friendly Procedure

In *Nipun Saxena* v. *Union of India*, the Court interpreted section 23 of POCSO and section 228A of the IPC to prohibit disclosure of the identity of a child victim in any form, including through indirect details, and directed the establishment of One Stop Centres and the drafting of a compensation scheme for victims of sexual offences.[48] On age determination, the Court has held that the procedure in section 94 of the Juvenile Justice Act, 2015, which prioritises documentary proof over ossification tests, governs POCSO cases.[49] In *Anurudh*, the Court reiterated that High Courts deciding bail cannot conduct a mini-trial on age by discarding a school certificate in favour of a medical estimate.[50]

3. The Reverse Burden after Deepak

Sections 29 and 30 have long been criticised as being in tension with the presumption of innocence. In *Deepak in JC* v. *State (NCT of Delhi)*, decided on 17 September 2026, the Court authoritatively clarified their operation. It held that the presumptions are rebuttable and do not relieve the prosecution of its duty to establish the foundational facts; that they operate by shifting the evidential, not the legal, burden; that the accused may rebut them on a

[44] *Attorney General for India* v. *Satish*, (2022) 5 SCC 545; reversing *Satish Ragde* v. *State of Maharashtra*, Criminal Appeal No. 161 of 2020, decided on 19 January 2021 (Bom HC, Nagpur Bench).

[45] *Independent Thought*, *supra* note 30, paras 107–108.

[46] *Eera* v. *State (NCT of Delhi)*, (2017) 15 SCC 133.

[47] *Bhaskar Paul* v. *State of W.B.*, 2026 SCC OnLine SC 1833.

[48] *Nipun Saxena* v. *Union of India*, (2019) 2 SCC 703.

[49] *P. Yuvaprakash* v. *State*, 2023 SCC OnLine SC 846; *Jarnail Singh* v. *State of Haryana*, (2013) 7 SCC 263.

[50] *State of U.P.* v. *Anurudh*, 2026 SCC OnLine SC 40 : 2026 INSC 47, decided on 9 January 2026 (Sanjay Karol and N. Kotiswar Singh, JJ.).

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preponderance of probabilities, including by exposing contradictions between ocular and medical evidence; and that the presumptions cannot override the guarantee of a fair trial under Article 21.[51] Applying these principles, it acquitted an accused whose conviction rested on a witness account riddled with improvements and contradicted by medical and forensic evidence. *Deepak* thus brings POCSO presumptions into line with the general jurisprudence on reverse burdens and should temper the tendency of trial courts to treat section 29 as a direction to accept the prosecution version as gospel truth.

E. Emerging Legal Challenges

1. Adolescent Sexuality and the Romeo–Juliet Debate

The single most contested issue is the treatment of consensual sexual activity between adolescents. Because consent is irrelevant below eighteen, a seventeen-year-old boy in a consensual relationship with a sixteen-year-old girl is liable to prosecution for penetrative sexual assault, and if the relationship results in pregnancy the case may be charged as aggravated penetrative sexual assault, attracting a minimum of twenty years. Several High Courts have expressed disquiet at this outcome and some have urged Parliament to reconsider the threshold.[52]

The issue reached the Supreme Court in the writ petition arising out of *Nipun Saxena*, in which the amicus curiae, Senior Advocate Indira Jaising, argued in July 2025 that the age of consent should be read down to sixteen, or that a rebuttable presumption of consent should operate for adolescents aged sixteen and above. The Union of India opposed any dilution, contending that the age of eighteen is a deliberate protective shield.[53] Two months earlier, in *In Re: Right to Privacy of Adolescents*, the Court had restored the conviction of a young man who had married the victim, but invoked Article 142 to decline to sentence him, noting that the victim did not regard the incident as a crime and that imprisonment would compound the harm caused to her by the State's own failures.[54]

On 9 January 2026, in *State of U.P.* v. *Anurudh*, the Court took judicial notice of the repeated misuse of the Act by families opposed to relationships between young people,

[51]*Deepak in JC* v. *State (NCT of Delhi)*, 2026 SCC OnLine SC 1914, decided on 17 September 2026 (Prashant Kumar Mishra and N.V. Anjaria, JJ.).

[52]*See*, e.g., "POCSO Act Meant to Protect Children from Sexual Exploitation, not to Criminalise Consensual Romantic Relationships: Delhi High Court" *Bar & Bench*, 14 November 2022; "'Injustice Going On with Adolescent Boys': Madhya Pradesh High Court Urges Central Government to Reduce Age of Consent to 16 Years" *Bar & Bench*, 30 June 2023.

[53]"Bring Down Age of Consent from 18 to 16 Years, SC Told" *PTI / The Week*, 24 July 2025; "Age of Consent: Centre Opposes Plea to Reduce It to 16" *India Legal*, July 2025.

[54]*In Re: Right to Privacy of Adolescents*, *supra* note 43.

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including by misrepresenting the age of the girl, and directed that its judgment be circulated to the Union Law Secretary to consider steps such as a Romeo–Juliet clause exempting genuine adolescent relationships and a mechanism for prosecuting those who use the law to settle scores.[55] The Court has since twice used Article 142 to quash POCSO convictions where the parties married after the victim attained majority, in each case stressing that the order is not to be treated as a precedent.[56]

This sequence reveals a jurisprudential tension. Case-by-case recourse to Article 142 achieves individual justice but erodes legal certainty, privileges litigants who can reach the Supreme Court, and risks legitimising "settlement by marriage", a practice that can conceal coercion. It is precisely the absence of a legislative close-in-age rule that pushes the Court into this role, which supports Hypothesis H2. Comparative practice offers models (Table 2).

Table 2: Comparative close-in-age ('Romeo–Juliet') models

Jurisdiction	General age of consent	Close-in-age rule	Key exclusions
India (POCSO Act; BNS)	18	None (Law Commission proposed guided sentencing discretion, 2023)	—
Canada (Criminal Code, s. 150.1)	16	Ages 14–15: partner less than 5 years older; ages 12–13: partner less than 2 years older	Relationships of trust, authority, dependency or exploitation
Japan (Penal Code, as amended 2023)	16	Ages 13–15: offence only where the partner is 5 or more years older	Coercion-based offences apply irrespective of age gap
Philippines (Republic Act No. 11648, 2022)	16	Exemption where age difference is not more than 3 years	Act must be consensual, non-abusive and non-exploitative
England & Wales	16	No statutory exemption;	Positions of trust

[55] *Anurudh*, *supra* note 50; *see also* "SC Asks Centre to Introduce Romeo-Juliet Clause in POCSO to Save Genuine Teen Relationships" *PTI / The Week*, 9 January 2026.

[56] *Maruthupandi* v. *State*, 2026 LiveLaw (SC) 614 (J.K. Maheshwari and A.S. Chandurkar, JJ.) (June 2026); "Crime Was Not Result of Lust But Love: Supreme Court Quashes POCSO Act Conviction Noting Marriage between Accused and Victim" *LiveLaw*, 31 October 2025.

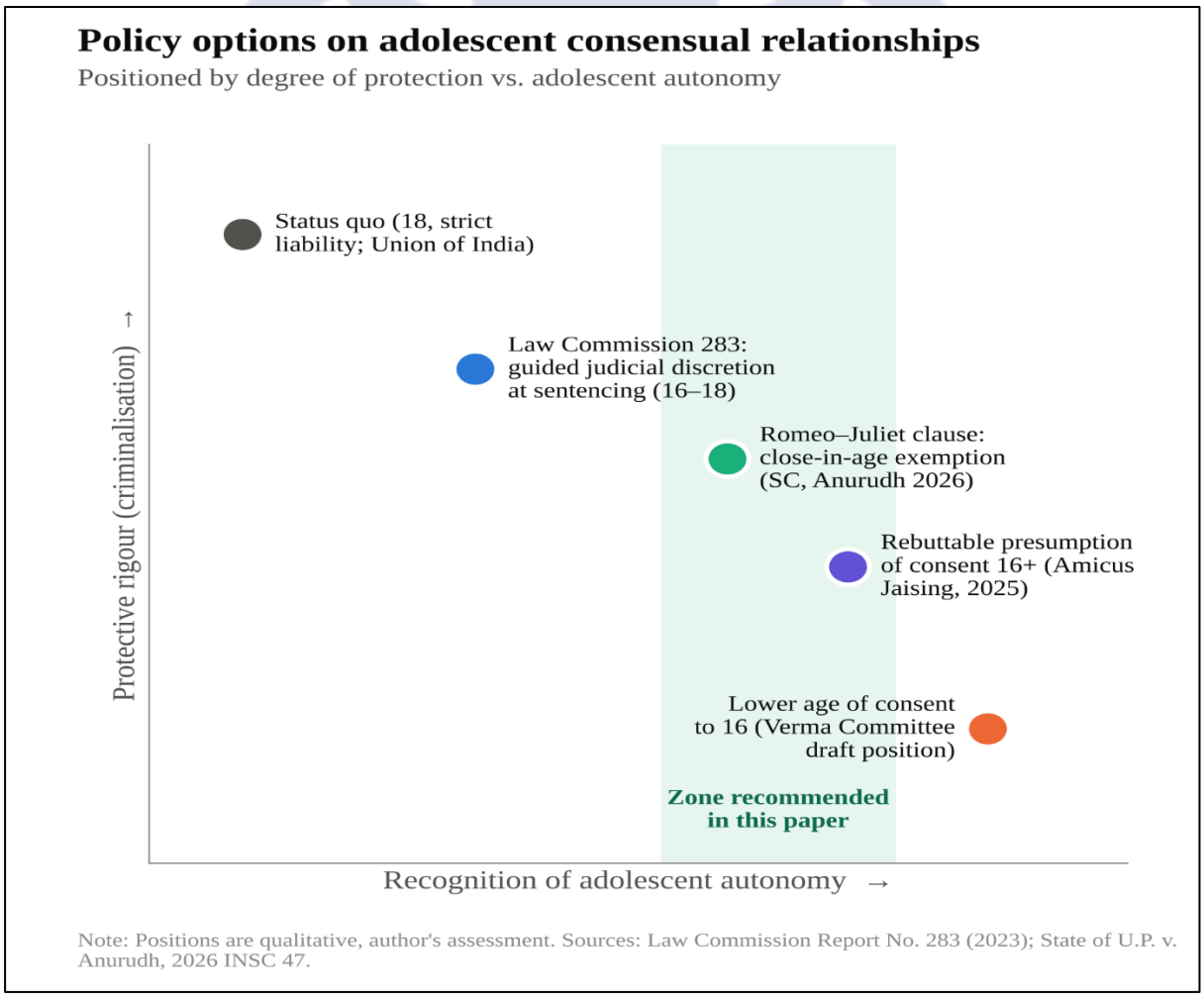
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Jurisdiction	General age of consent	Close-in-age rule	Key exclusions
(Sexual Offences Act 2003)		prosecutorial guidance; lower penalties where offender is under 18 (s. 13)	offences continue to apply

Source: Author's compilation from the statutes cited (as amended up to 2025).

The comparative models share three features: a narrow age gap, a lower age floor below which no exemption applies, and exclusion of relationships of trust, authority or dependency. A carefully drafted Indian exemption could follow this template without lowering the general age of consent. Figure 10 positions the principal policy options along the axes of protective rigour and adolescent autonomy.

Figure 10: Policy options on adolescent consensual relationships



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2. Child Sexual Exploitation and Abuse Material

In *Just Rights for Children Alliance* v. *S. Harish*, the Court reversed a Madras High Court decision that had held that merely downloading and watching child pornography in private was not an offence. It held that section 15 of POCSO creates three distinct inchoate offences; that "possession" includes constructive possession, so that a person who views such material online with the ability to control it is in possession even without downloading it; that failure to delete or report material is itself punishable; and that the presumption in section 30 applies at the stage of trial. The Court recommended that Parliament replace the term "child pornography" with "child sexual exploitation and abuse material" (CSEAM) and directed attention to comprehensive sex education.[57]

Three challenges remain. *First*, generative artificial intelligence now enables the creation of realistic sexual imagery of children without the involvement of any real child. Whether such synthetic material falls within the definition in section 2(1)(da), which refers to a visual depiction "involving a child", is uncertain and should be resolved legislatively. *Second*, the doctrine of constructive possession requires evidentiary clarity to avoid criminalising accidental exposure; the reporting mechanism contemplated in Rule 11 needs to be operationalised through a public online portal, as the Court itself recommended. *Third*, self-generated imagery exchanged between adolescents raises the same proportionality concerns as consensual sexual activity and should be addressed through diversion rather than prosecution.

3. Misuse in Matrimonial and Custody Disputes

The Court has recently confronted the use of POCSO allegations against a parent in the midst of matrimonial litigation. In *Ishwar Chand Sharma* v. *State of U.P.*, applying the principles in *State of Haryana* v. *Bhajan Lal*, it quashed proceedings against a father and relatives that bore the hallmarks of vengeance; and in *R* v. *E*, decided on 24 September 2026, it reportedly laid down safeguards for allegations against a parent or co-resident family member where matrimonial disputes are pending, including expert psychological assessment before arrest and before a Special Court issues process on a private complaint.[58] At the same time, in *X* v. *Y*, the Court refused custody to a father against whom a charge-sheet had been filed on the

[57] *Just Rights for Children Alliance* v. *S. Harish*, 2024 SCC OnLine SC 2611: 2024 INSC 716, decided on 23 September 2024 (D.Y. Chandrachud, C.J. and J.B. Pardiwala, J.).

[58] *Ishwar Chand Sharma* v. *State of U.P.*, decided on 29 May 2026 (B.V. Nagarathna and Ujjal Bhuyan, JJ.); *R* v. *E*, decided on 24 September 2026 (J.B. Pardiwala and K.V. Viswanathan, JJ.), as reported in Anik M. Iktear Uddin, "POCSO: The Next Weapon in Matrimonial Disputes?" *First India*, 15 October 2026; *State of Haryana* v. *Bhajan Lal*, 1992 Supp (1) SCC 335.

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basis of the child's disclosure to a psychiatrist, and expunged the High Court's premature observations doubting the allegations.[59] These decisions must be read together. They do not establish that matrimonial POCSO complaints are generally false; intra-familial abuse is real and under-reported. What they require is a calibrated, evidence-led procedure that protects children both from abuse and from being instrumentalised in parental conflict. Section 22, which punishes false complaints made with malicious intent but exempts children, provides a limited deterrent that is rarely invoked.[60]

4. Mandatory Reporting and Adolescent Health

Section 19 admits no exception for the confidentiality of medical consultations. The result is that an adolescent seeking a medical termination of pregnancy, contraception or treatment for a sexually transmitted infection may face a police report against her partner. The Supreme Court's partial solution in *X* v. *Principal Secretary*, permitting non-disclosure of the minor's identity in such reports, is welcome but incomplete. A health-care confidentiality protocol, consistent with the Mental Healthcare Act, 2017 and the Medical Termination of Pregnancy Act, 1971, is needed.[61]

5. Mandatory Minimums, the Death Penalty and Article 142

The 2019 amendment's escalation of minimum sentences and introduction of the death penalty for aggravated penetrative sexual assault were justified on grounds of deterrence. However, the research on sentencing indicates that the certainty of punishment matters more than its severity, and that harsh mandatory penalties may encourage family members, who are often the perpetrators' relatives, to withdraw support for prosecution.[62] The growing resort to Article 142 to avoid mandatory sentences is a symptom of this rigidity. A statutory sentencing guideline, drawing on the "guided judicial discretion" model of the Law Commission, would be preferable to ad hoc constitutional dispensation.

6. Institutional Safety and Public Spaces

In September 2026, the Supreme Court took suo motu cognisance of a series of crimes against minor girls and women in the National Capital Region and directed a safety audit of

[59] *X* v. *Y*, 2026 SCC OnLine SC 1979, decided on 23 September 2026 (Vikram Nath and Sandeep Mehta, JJ.).
[60] POCSO Act, s. 22.
[61] *X* v. *Principal Secretary*, *supra* note 19.
[62] Mrinal Satish, *supra* note 21.

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public spaces, observing that freedom from the fear of violence is intrinsic to Article 21.[63] The order signals a shift from a purely penal to a preventive, rights-based conception of the State's duty, consistent with Rule 3 of the POCSO Rules, which requires police verification of staff in institutions housing children.[64]

IV. Findings

On the basis of the foregoing analysis, the study arrives at the following findings:

1. **Normative soundness.** The POCSO Act's substantive and procedural framework is broadly consistent with Article 15(3) and Article 21 of the Constitution and with the UNCRC. Its gender-neutral definition of the child and its graded offences remain progressive relative to the BNS.
2. **Rising registration.** Registered cases rose by about 112 per cent between 2017 and 2024. POCSO offences consistently constitute 36 to 38 per cent of all crimes against children.
3. **Chronic pendency.** Pendency at the trial stage has remained close to ninety per cent. Although FTSCs disposed of more cases than were registered in 2025, a backlog exceeding 2.45 lakh cases persists and section 35's one-year timeline is honoured mostly in the breach.
4. **Declining convictions.** Conviction rates fell from about 40 per cent in 2020 to about 29 per cent in 2023, and to about 19 per cent in FTSCs, indicating that speed has been achieved at the cost of quality of investigation and prosecution.
5. **Strict liability and adolescents.** A significant proportion of cases arise from consensual adolescent relationships. The absence of a close-in-age exception has led to inconsistent outcomes and increasing reliance on Article 142, confirming Hypothesis H2.
6. **Judicial recalibration.** The Supreme Court has reinforced the Act's protective reach (*Satish, S. Harish*), while also safeguarding fair-trial rights (*Deepak, Bhaskar Paul*) and recognising misuse (*Anurudh, R* v. *E*).
7. **Weak victim support.** Support persons, compensation and rehabilitation remain under-implemented, and the State's failure in these respects has been held to violate Article 21.
8. **Technological lag.** The statute does not expressly address AI-generated or synthetic CSEAM, livestreamed abuse or online grooming as a stand-alone offence.

[63] *In Re: Recent Rape Incidents in Delhi NCR*, 2026 SCC OnLine SC 2018 (J.B. Pardiwala and K. Vinod Chandran, JJ.).
[64] POCSO Rules, 2020, r. 3.

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9. **Hypothesis H1** is substantially confirmed: the principal deficits are implementational, with the important exception of the age-of-consent question, which is normative and requires legislative action.

V. Recommendations

A. Legislative Reforms

1. **Close-in-age exception.** Insert a narrowly tailored proviso to sections 3 to 6 exempting consensual, non-exploitative sexual activity where both parties are above sixteen and the age difference does not exceed three years, excluding cases involving persons in positions of trust, authority or dependency, and cases involving force, intoxication or commercial exploitation. The general age of consent of eighteen should be retained.
2. **Guided sentencing discretion.** Following the Law Commission's 283rd Report, empower Special Courts to impose a sentence below the statutory minimum, for recorded reasons, in cases of tacit approval by a child aged sixteen to eighteen.
3. **CSEAM.** Replace "child pornography" with "child sexual exploitation and abuse material" throughout the Act, expressly include computer-generated and AI-generated material depicting children, and create a stand-alone offence of online grooming.
4. **Confidential health care.** Introduce a statutory protocol under section 19 permitting registered medical practitioners to report without disclosing the adolescent's identity and to provide confidential health services.
5. **False complaints.** Strengthen and operationalise section 22, with safeguards to ensure that genuine complainants are not deterred.

B. Institutional and Administrative Reforms

1. **Special Courts.** Achieve full sanctioned strength of FTSCs and exclusive POCSO courts on a caseload-based formula (one court per 100 to 150 pending cases), with dedicated Special Public Prosecutors and child-friendly deposition rooms.
2. **Forensic capacity.** Set time-bound standards for FSL reports and expand DNA-analysis capacity at the State level.
3. **Support persons and compensation.** Ensure a trained support person in every case from the FIR stage and time-bound disbursement of interim compensation under Rule 9.
4. **Training.** Institutionalise trauma-informed training for police, prosecutors, judges and medical officers through State judicial academies.
5. **Matrimonial-dispute safeguards.** Operationalise the *R* v. *E* safeguards through standard operating procedures, without diluting the mandatory reporting obligation.

C. Data and Accountability

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1. **National POCSO dashboard.** Create a real-time, disaggregated dashboard capturing age of victim and accused, relationship, type of offence, time to charge-sheet, time to trial completion, outcome and compensation paid.
2. **Classification of romantic cases.** Require NCRB and e-Courts to separately record cases where the parties were in a consensual relationship, to inform evidence-based policy.
3. **Independent monitoring.** Strengthen the NCPCR and SCPCRs under section 44 with statutory reporting to Parliament and State legislatures.

D. Prevention and Education

1. **Comprehensive sexuality education.** Implement the age-appropriate sex and POCSO-awareness education recommended in *S. Harish* through the National Education Policy framework.
2. **Community awareness.** Use school, panchayat and digital campaigns to address stigma, encourage disclosure and inform children of the "safe touch / unsafe touch" distinction and helpline services such as 1098.

VI. Conclusion

The POCSO Act represents one of the most significant child-rights legislations in post-independence India. It closed the gaps of the colonial penal code, recognised that boys are also victims, introduced a child-friendly procedure and created an institutional architecture of Special Courts and support persons. Its significance has only grown since the enactment of the BNS, whose sexual offences remain gender-specific.

The evidence assembled in this paper shows, however, that a law is only as effective as the institutions that apply it. Rising registrations, a near-ninety per cent pendency rate, falling conviction rates and patchy victim support indicate that the promise of speedy, child-friendly justice is yet to be realised. At the same time, the strict-liability framework, applied indiscriminately to consensual adolescent relationships, has produced outcomes that the Supreme Court itself has described as a misuse of the law, and has driven the Court to rely on Article 142 in a manner that is neither predictable nor equitable.

The decisions of 2024–2026, from *S. Harish* to *Anurudh* and *Deepak*, show a judiciary attempting to hold together two commitments: an uncompromising stance against the sexual exploitation of children, and fidelity to fairness, proportionality and adolescent dignity. These commitments are complementary rather than contradictory. A legislative close-in-age exception, a guided sentencing framework, technology-specific CSEAM provisions and sustained investment in courts, forensics and victim support would allow the POCSO Act to

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concentrate its considerable force where it belongs: on the protection of children from those who would exploit them. The task now rests with Parliament.

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