

CASE COMMENT ON STATE OF UP Vs ANURUDH AND ANOTHER*by***S. Yuvasrija**

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IVth yr, B.Com L.LB (Hons.)**Abstract**

This case comment discusses the SC's decision in *State of Uttar Pradesh v. Anurudh*¹ addressing the scope of bail jurisdiction under Section 439 of the Code of Criminal Procedure and the determination of age of victim in prosecutions under the Protection of Children from Sexual Offences Act, 2012 (POCSO). The judgment elucidates that, while exercising bail jurisdiction, High Courts must confine themselves to the question of issuance of bail and withhold from issuing wide administrative directions. It restates the statutory hierarchy of evidence for age determination by stating the prevalence of documentary evidence over medical opinion, except when reliable documentary records are unavailable.

The comment also deals with the Court's observation on the need to consider a "Romeo-Juliet clause" to regard accusations arising from consensual adolescent relationships. It argues that the judgment seeks to equate the children's rights by preventing the misuse of beneficial legislation in cases of voluntary adolescent relationships. To sum it up, this decision reinforced the governing principles of bail adjudication, statutory framework for age determination, and significant discussion on legislative reform. This judgment throws light on the prevailing grey area in the POCSO Act.

Keywords: Jurisdiction, Romeo-Juliet Clause, Documentary Evidence and Legislation.**Relevant citations:** 2026 SCC OnLine SC 40, 2026 INSC 47**Author:** Sanjay karol J

¹ State of Uttar Pradesh v. Anurudh, 2026 INSC 47,

Bench: Sanjay karol, and N. Kotiswar singh, JJ

INTRODUCTION

“Curiosity kills the cat”. The “Romeo-Juliet clause” however is one curiosity that demanded further exploration. This curiosity eventually paved the way for this work. The scope of bail jurisdiction even though it has been reiterated in many cases, the courts over step the jurisdiction sometimes. The POCSO Act was enacted to protect children from sexual offences. However, its application in non-intended consensual adolescent relationships is growing. *State of Uttar Pradesh v. Anurudh*² contributes to the debate on the absence of a "Romeo-Juliet" exception for age-proximate relationships. The case also highlights concerns regarding the misuse of the Act in certain family-driven disputes. It underscores the need to balance child protection with fair and proportionate enforcement of the law.

FACTS

- The case arose from an FIR lodged by the victim's mother alleging that her minor daughter had been kidnapped. The accused (Respondent 1) was charged under Sections 363 and 366 of the Indian Penal Code and Sections 7 and 8 of the POCSO Act, 2012.
- The Trial Court rejected bail application- order dated 29th September 2023. Approaching the High Court (HC), questions were raised concerning the victim's age due to vast inconsistencies in her school records and her statements recorded during the investigation.
- Resolving discrepancy, the HC directed Chief Medical Officer to constitute a medical board to determine her age. Pending report, on 8th May 2024 the accused was granted interim bail on the statements of the victim under sections 161 and 164 of CrPC, which was later made absolute.
- Aggrieved by the HC's order, the State of Uttar Pradesh filed an appeal before the Supreme Court of India (SC) by special leave, challenging the grant of bail, the correctness of the final order on 29th May 2024 and also the directions.

² Aman@vansh v. State of U.P, 2024: AHC: 62260

ISSUES FOR DETERMINATION

Whether under Section 439, CrPC the HC has jurisdiction to issue such directions, mandating age determination test to be conducted in all cases involving the POCSO Act.

Whether the direction to determine the age of the victim was consistent with the provisions of the law.

ARGUMENTS ADVANCED:

APPELLANT:

(APPLICANT) On bail application:

1. The prosecution's claim – the victim was a minor is disputed due to contradictions in the age recorded in various prosecution documents, including the FIR. While the victim stated that she was 15 years old, the medical age determination (report of CMO) assessed her to be 18 years old, and the school records relied upon by the prosecution are stated to be unreliable.
2. The prosecution case is discredited by the delay (2 days) in lodging the FIR and the material discrepancies between the FIR and the victim's statements (recorded under Sections 161 and 164 Cr.P.C. (where she claimed to have completed the age of 18) which cast doubt on the prosecution's version.
3. The victim admitted that she was in consensual relationship with the applicant, voluntarily accompanied (eloped), and married him of her own free will. She made no allegation of rape, wrongful detention, or forceful assault against the applicant. There was no medical evidence corroborating the allegation of rape, thereby weakening the case against the applicant.
4. The applicant has no prior criminal record, has cooperated with the investigation, undertakes to join the trial, not a flight risk, and there is no chance of him influencing witnesses, tampering with evidence, or obstructing the trial.

On bail jurisdiction:

5. The applicant argued that Pradeep Kumar Chauhan is not binding for age determination under Section 164-A Cr.P.C. read with Section 27 of the POCSO Act. It was submitted that the Court rightly directed a medical examination in accordance with *Aman@vansh v.*

*State of U.P.*³, and that the victim's age in bail proceedings should be determined by reading *Monish V. State of U.P.*⁴, and Aman together.

RESPONDENT:

(OPPOSITE PARTY) On bail application:

The applicant, who has been in judicial custody since 05.08.2023, sought bail in case registered under Sections 363, 366, 376(3) IPC and Section 3/4(2) of the POCSO Act after the trial court rejected his bail application on 29.09.2023. The State submitted that notice of the bail application had been duly served upon the victim, her legal guardian, and the Child Welfare Committee in compliance with directions issued in *Junaid v. State of U.P.*⁵, and provisions of the POCSO Act and Rules.

On bail jurisdiction:

The State contended that, in view of the decision in *Pradeep Kumar Chauhan v. State of U.P.*⁶, the police were not authorised to conduct a medical examination to determine the victim's age. However, the applicability of the said decision to investigations under the POCSO Act requires clarification.

JUDGMENT:

With respect to the jurisdiction the Hon'ble Court held that the HC has overstepped its bail jurisdiction *i.e., coram non judice*. Usurping the constitutional powers over the statutory limits made the restrictions imposed under the later redundant. The HC erred in giving directions and determining the age of the victim. The court while granting bail isn't empowered to conduct mini trial. The court reversed the decision of the HC and allowed the appeal as it was violating its jurisdiction by opting for compulsory medical age determination. It emphasized that the determination must follow the statutory procedure during the trial and seriously condemned the misuse of POCSO Act. It recommended legislative protection *i.e., Romeo-Juliet* clause.

JUDICIAL RESTRAINT IN BAIL JURISDICTION:

According to section 439 of the CrPC, the special power of the HC is to give notice to the public prosecutor only when they're sitting in bail jurisdiction. The court on any other jurisdiction,

³ Monish V. State of U.P, 2023: AHC: 32270

⁴ Ibid.

⁵ Junaid Khan v. State of U.P, 2025: AHC: 180311

⁶ Pradeep Kumar Chauhan v. State of U.P, Habeas Corpus Writ Petition No – 733 of 2020

usurping the constitutional power as inherent will amount to assuming power. When doing what is not allowed in a statute by assuming the mother document as source of power, would become colourable legislation in judicial field. The power to investigate the victim's age and directions thereof is a matter for the trial court. The SC has in the case **Zeba Khan V. State of U.P.**⁷, has discussed about the parameters (bail). In **Manik Madhukar Sarve and others v. Vitthal Damuji Meher and others**⁸, the Court thoroughly have reemphasized the threshold - jurisdiction to grant bail, inclusive of nature and gravity of the offence, part played by the accused, criminal antecedents, the probability of him tampering with evidence or witnesses, risk of abscondence, and the impact on society.

Here in this case the applicant has clearly established that he does fit within the parameters to grant bail. In this case the HC has over assumed power which the SC has rightly rejected as usurpation of power. While deciding a bail application, courts must restrict themselves to granting or refusing bail and should not issue broad administrative directions to investigating agencies. Bail jurisdiction under the CrPC is limited to examining factors such as likelihood of absconding, tampering evidence, or influencing witnesses. Matters relating to police administration and investigative procedures fall within the executive's domain. Once the issue of bail is decided, the court becomes *functus officio*. By issuing general directions through a bail order, a court exceeds its statutory jurisdiction and undermines the principle of separation of powers.. The SC therefore had correctly held that the power under Section 483 of the BNSS cannot be used to frame wider administrative policies.

DOCUMENTARY EVIDENCE OVER MEDICAL EVIDENCE:

The SC has referred multiple cases on this aspect to uphold the hierarchy of documents and at last the medical evidence. Physical documents are susceptible to fabrication and thus may not reflect the truth. The Indian courts consistently prioritize the documentary evidence. The medical evidence like ossification test provided a broad age range to be the age of the victim and thus have a corroborative value. But the documents record a precise age which surpasses the vague medical estimation. There is the risk of margin of error (of at least 2 years) in medical tests. In the case at hand there is inconsistency in the age claimed by the victim and the prosecution.

⁷ Zeba Khan V. State of U.P, 2026 INSC 144

⁸ Manik Madhukar Sarve and others v. Vitthal Damuji Meher and others, 2024 INSC 636

Considering all the susceptibilities, the authenticity of the document must be established before relying on them.

Recently in the case of **Vishal Som V. State of Odisha**⁹ it was observed that an ossification test can give only approximate probable age and not an accurate determination. Medical estimation carries inherently an error margin, and therefore it cannot be given precedence over reliable documentary evidence which gives the exact date of birth. The SC has correctly held that the documentary evidence must be given precedence over medical evidence.

THE ROMEO-JULIET CLAUSE:

Romeo-Juliet clause is one way of protecting adolescent relationships by exempting close-in-age relationships from the evil of criminalization. Parents frequently invoke POCSO in cases of teenage elopements and voluntary romantic relationships to protect the so-called family reputation. Many countries have already enacted it in their national legislation. New York's mature minor doctrine allows mature adolescents to make certain medical decisions without parental consent. Similarly, many U.S. states recognise Romeo-Juliet laws for example, Texas permits 3-year age gap for persons aged 14 and above, while Illinois and Georgia allow 5-year and 3-year age gaps, respectively. In Canada the section 150 clauses (2) to (2.2) acts as the Romeo Juliet clause where the exception of 2 years and 5 years older is given for the defence when the complainant is 12 or more and 14 or more years old respectively. Even in India many HCs have recommended the exception.

In *Vijay Chand Dubey V. The State of Maharashtra & Anr*¹⁰ the court observed that although the prosecutrix was a minor under the POCSO Act, the circumstances of the case showed that she was sufficiently mature to understand the nature and consequences of her action. It further noted that she had voluntarily accompanied and remained with applicant. Also in the case of *Anandharaj V. State Rep. by Inspector of police*¹¹, the Madras HC had reiterated the need for the statutory amendment, "*it is high time that the legislature takes into consideration cases of this nature involving adolescents involved in relationships and swiftly bring in necessary amendments under the Act.*"

Here in the present case the Supreme Court had felt the necessity to balance the realities- recommended the legislature to insert a Romeo-Juliet clause. This inclusion would actually

⁹ Vishal Som V. State of Odisha, CRLA No. 805 of 2023

¹⁰ Vijay Chand Dubey V. The State of Maharashtra & Anr, 2025:BHC-AS:7845

¹¹ Anandharaj V. State Rep. by Inspector of police, Crl.O.P.No.23221 of 2025

protect the innocent consensual close-in-age relationship from the rigors of the family disputes. The court has rightly noted that POCSO Act is often misused- means of revenge. The court circulated a copy of the judgment to the secretary, law department, to make a clause to prosecute those who manipulate the law to their benefit.

CONCLUSION:

In my opinion, the SC has reached the right conclusion in “*State of UP V. Anurudh*¹²” by keeping the scope of bail proceedings within their legal limits and upholding the hierarchy of documents in the age determination. In principle the court has restored the judicial restraint. The judgment also recognises that the POCSO Act should not be used in cases involving genuine consensual adolescent relationships. At the same time, it does not weaken the protection available to child victims thus, preserving the protection. The recommendation to consider a Romeo-Juliet clause is a practical step towards addressing the misuse of the law and curbing the legal misapplication. Overall, the judgment strikes a fair balance between protecting children and ensuring that justice is not misused, has paved way for progressive development.

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¹² Ibid supra note 1.

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