

# FAST TRACKING JUSTICE

ROLE OF FAST TRACK  
SPECIAL COURTS  
IN REDUCING  
CASE BACKLOGS

Report by

**I**NDIA  
**C**HILD  
**P**ROTECTION



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## ROLE OF FAST TRACK SPECIAL COURTS IN REDUCING CASE BACKLOGS

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# List of Acronyms

A2J	Access to Justice
BBA	Bachpan Bachao Andolan
BNSS	Bharatiya Nagrik Suraksha Sanhita
CrPC	Criminal Procedure Code
CSS	Centrally Sponsored Scheme
DCW	Delhi Commission for Women
DOJ	Department of Justice
DSLSA	Delhi State Legal Services Authority
FTSC	Fast Track Special Court
IIPA	Indian Institute of Public Administration
IPC	Indian Penal Code
NCRB	National Crime Record Bureau
PIB	Press Information Bureau
POCSO	Protection of Children from Sexual Offences Act
RCC	Rape Crisis Cell
UT	Union Territory
VWDC	Vulnerable Witness Deposition Centres





# Executive Summary

The Hon'ble Supreme Court of India in July 2019 took up the issue of completion of timely investigations and consequential trials in the offences under POCSO Act in suo-moto Writ Petition (Criminal) No. 1/2019 and expressed concern over the inadequate judicial infrastructure, lack of sufficient judges, and the slow pace of trials, which resulted in delayed justice for child victims. One of the several directions the court issued in this case stated that if there are more than 100 cases under the POCSO Act in any district of the country, a special court will be established that will only hear cases related to the POCSO Act and will not hear any other cases.

To implement the Criminal Law (Amendment) Act, 2018 prescribing strict timelines for completion of investigation and trial of rape and POCSO cases and comply with the directives of the Supreme Court, the government created the Fast Track Special Court (FTSC) Scheme in August 2019. The aim of this Scheme was to set up FTSCs across the country, along with special POCSO courts, for expeditious disposal of rape and POCSO Act cases. The Scheme was launched on 2 October 2019.

The present study has been undertaken by the **India Child Protection (ICP) Research Team in view of the year-on-year increase in cases of sexual violence against women and children and the delay in case trials to access the functioning of FTSCs.** The FTSCs are created as per the directives of the Hon'ble Supreme Court of India in 2019 for speedy disposal of such cases, in terms of disposal of rape and POCSO cases.

## A. Performance of Fast Track Special Courts (FTSC)

With an 83 percent disposal rate in 2022 and a 94 percent disposal rate in 2023, FTSCs demonstrated noticeably higher efficiency

- As of August 2024, a total of **755 Fast Track Special Courts, including 410 exclusive POCSO courts, are functional out of the 1023** earmarked courts.
- **In total, 4,16,638 rape and POCSO cases have been instituted in FTSCs since the inception** of the Scheme.
- **FTSCs have shown remarkable efficiency by disposing of 52 percent of the cases filed since their inception.** A total of 2,14,463 out of 4,16,638 cases were disposed since the initiation of the FTSC Scheme.
- **Maharashtra (80%) and Punjab (71%) have recorded a high rate of disposal of cases,** which is well above the national average (52%).
- West Bengal has recorded the lowest rate of disposal (2%) among all states and union territories. It is also due to the fact that the **state has made functional only 3 out of 123 earmarked FTSCs.**
- In 2023 alone, 81,471 new rape and POCSO cases were instituted, of which a total of 76,319 cases were disposed by FTSCs. While the same cases may not have been disposed, this number (the figure of 76,319 out of 81,471) **is staggering and shows an impressive disposal performance at the rate of 94 percent.**
- **The disposal rates of rape and POCSO cases across all courts in the country were alarmingly low, with only 10 percent of cases being disposed in 2022.** In stark contrast, the FTSCs

displayed significantly higher efficiency, with a disposal rate of 83 percent in the same year, which saw a further increase to 94 percent in 2023.

- As per the estimates based only on the central government's share of funding, the average operating/functioning cost per FTSC was estimated to be INR 23.37 lakhs in 2020. **By 2022, however, this cost had significantly decreased to INR 17.52 lakhs, representing a 25 percent reduction at the all-India level.** In total, INR 2,653 Cr has been allotted for the establishment and functioning of FTSCs since the launching of the FTSC Scheme. As of August 2024, INR 917 Cr has been released by the central government.

## B. Estimated Number of Years Required to Clear Backlogs

India needs to dispose at least 1 case of rape or POCSO every 3 minutes to clear the backlogs as of December 2023 in one year

- **The backlog of pending rape and POCSO cases in courts nationwide has consistently increased over the past three years**, rising from 2,81,049 in 2020 to a staggering 4,17,673 by the end of 2022.
- Given the current disposal rate of 76,319 cases per year, **India would need approximately 3 years to clear the existing backlog of 2,02,175 rape and POCSO cases at the level of FTSCs** if no new cases are added.
- These estimated years for completing **backlogs can go on an infinity if new cases are added to the existing FTSCs and if no new courts are formed** for fast tracking the cases of rape and POCSO.

- As per the Bhartiya Nagarik Suraksha Sanhita (BNSS) {replaced with Code of Criminal Procedure (CrPC)}, the **trial in rape cases needs to be completed within a period of 2 months** after filing of the chargesheet, and as per the POCSO Act, the Special Court shall complete the trial within a period of one year.
- If the BNSS and POCSO **guidelines are adhered to, FTSCs need to dispose 554 cases every day to clear the backlog of 2,02,175.**

## C. Key Strategies to Clear Backlog

- Focus should be on making the **remaining 268 earmarked FTSCs out of 1,023 in the original Scheme functional with immediate effect.**
- **Inclusion of at least 1,000 more FTSCs in the Scheme to clear all pending rape and POCSO cases across the country.** The directives of the Supreme Court of India in 2019 for speedy disposal of cases need to be adhered to for the creation of these additional FTSCs.
- **Compromise or compound and plea bargaining in rape and POCSO cases continues to be allowed by the courts despite an explicit prohibition** in BNSS (replaced with CrPC).
- **Between 2020-22, 1,676 (Rape-818; POCSO-858) cases were compromised or compounded, and in 77 (Rape-25; POCSO-57) cases, plea bargaining was accepted by the courts.**
- **India has reached the tipping point to justice, a point when the number of cases disposed in a given year is equal to or greater than the number of new cases instituted during the same year. To maintain the tipping point of ensuring speedy and timely justice to women and child victims of rape and POCSO in the coming years, extension of existing FTSCs is strongly recommended.**

- **24 percent (INR 1,700 Cr.) of the Nirbhaya Fund remain unutilised and unallocated<sup>1</sup>.** As of the financial year 2023-24, the Nirbhaya Fund has been allocated a total of INR 7,213 Cr. Of which INR 5,513 Cr. has been released and utilised, which constitutes about 76 percent of the total allocation.
- This unutilised amount of the Nirbhaya Fund may be utilised for the establishment and smooth functioning of additional FTSCs. **A total of INR 1,952 Cr. has been allocated for extension of the existing FTSCs for three years, till 2026, roughly INR 651 Cr per year.**
- **Hence, the additional FTSCs can easily operate for at least 2 years with the available funds, as INR 1,700 Cr. unutilised amount is available while the requirement is INR 1,302 Cr.**
- **The performance of FTSCs is positive; it is one step in the justice delivery process.**
- The victim's battle for justice does not stop even when the Fast Track Special Court convicts the accused; it will go on until the process of appeal in higher courts is completed. Thus, **it is necessary to specify the appeal and trial timelines to guarantee prompt justice.** In this regard, policies could be framed specifying timelines in which appeals can be filed at the High Court and Supreme Court levels.
- **Furthermore, it is essential to provide additional support at high courts, as the process of justice does not get over with the disposal of cases by the FTSCs.**
- **No real-time data is available on acquittal and conviction in rape and POCSO cases in the country.** If the rate of conviction of rape and POCSO is assumed to be at the same rate as in 2022, i.e., 29 percent, 62,194 cases would have ended with conviction in the FTSCs. Real-time statistics on it must be provided in order to assess the success of FTSCs. This could be included in the dashboard for the FTSC.
- **The FTSC dashboard could include and display the status of case disposal, including the trial's outcome.** It will enable the victim(s) and the state to challenge the acquittal orders through real-time data and case status tracking. It would also guarantee that the FTSC operates transparently.
- There is **no data available for pending cases at the high courts and the Supreme Court.** This may also be included in the dashboard.

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<sup>1</sup> Lok Sabha Unstarred Question No. 1997 Dt. 2nd August 2024, Ministry of Women and Child Development, Government of India

# Introduction

India has emerged as the world's most populous nation in 2023, with an estimated population of 1.428 billion people (17.8 per cent of global population). 18.6 per cent of which are children aged 0 -17 years, and 27.2 per cent constitute youth aged 15-29 years (projected)<sup>2</sup>. The size of the population brings with it both challenges and opportunities. The young population of India is a boon for its development and economic growth. On the dark side it hides a range of crimes against children.

Child sexual abuse is one such criminal category that plagues the children of India. Despite concentrated efforts, legal provisions and an improved support system, child sexual abuse is still considered taboo and the majority of people prefer to keep silent on the issue. As per Crime in India Report by National Crime Records Bureau 2022 the total cases registered against women and children for rape (Indian Penal Code (IPC) Sec 376) and Protection of Children from Sexual Offences Act, 2012 (POCSO) is 94,930 of which, 33.2 percent accounts for the rape cases and 66.8 percent accounts for the POCSO cases. In 2022, cases related to crime against women and children has witnessed a significant increase of 10.9 percent and the average disposal rate of these cases stands out to be only 10 percent.

A study<sup>3</sup> conducted in 2017 revealed that if no new case of child sexual abuse was reported, then it would still take 20 years to dispose the pending cases as of the end of 2016. Looking at the alarming rise in the number of reported

child rape incidents and the pendency in the disposal of cases, the Supreme Court of India on 16 December 2019 passed a detailed order with directions to State Governments on the setting up of exclusive courts for the trial of cases under POCSO Act. This was in continuance of the 25 July 2019 order, when it had directed all states to ensure that an exclusive POCSO court be set up within 60 days in every district that has more than 100 POCSO cases pending<sup>4</sup> (for related court orders, refer to Annexure 5).

The Indian judicial system has long grappled with challenges such as case backlogs, delays, and inefficiencies<sup>5</sup>, necessitating the adoption of measures for expeditious justice delivery. In response to these issues, Fast Track Special Courts were introduced as a specialized approach, stemming from Supreme Court orders issued on 25 July 2019<sup>6</sup>, and December 16, 2019<sup>7</sup>. Following the incident of December 2012, the Government came up with a dedicated fund known as the Nirbhaya Fund. The main objective behind setting up this fund was to provide funds that could be utilized towards schemes specifically designed to improve the safety and security of women in the country.

Nirbhaya Fund is a non-lapsable corpus fund administered by the Department of Economic Affairs, Ministry of Finance. The Ministry of Women and Child Development is the nodal authority for recommending the proposals/ schemes to be funded under the Nirbhaya Fund.

2 RAM3 COAR.rdl (unicef.org), accessed on 24 July 2024

3 Kailash Satyarthi Children's Foundation (2017) The Children Cannot Wait

4 Supreme Court Observer, <https://www.scobserver.in/court-case/pocso/pocso-day-16-arguments>

5 Datta, Pratik and Rai, Suyash (2021), How to Start Resolving the Indian Judiciary's Long-Running Case Backlog, Carnegie, <https://carnegieendowment.org/2021/09/09/how-to-start-resolving-indian-judiciary-s-long-running-case-backlog-pub-85296>

6 Supreme Court Observer, <https://www.scobserver.in/court-case/pocso/pocso-day-16-arguments>

7 Alarming rise in the number of reported child rape incidents, Suo Motu Writ Petition (Criminal) No. 1/2019, Supreme Court of India

The Ministry of Women and Child Development decided to use the Nirbhaya Fund for implementing the Scheme on FTSCs for expeditious disposal of the cases of Rape and POCSO Act. These special courts are expected to expedite the process of justice and are used as a deterrence framework for sexual offenses against women. In comparison to the regular courts, FTSCs have a better clearance rate and are intended to deliver justice as fast as possible<sup>8</sup>.

## **About the Scheme**

The Ministry of Law and Justice acted upon the Supreme Court directions and came up with the scheme on FTSCs for expeditious disposal of rape and POCSO cases in January 2020. The main objective of this scheme is to set up 1,023 FTSC to dispose-off pending cases related to rape of children and women. To prevent such heinous crimes, stricter laws have been introduced through “the Criminal Law (Amendment) Act, 2018”. The Amendment strengthened the relevant provisions of the Indian Penal Code (IPC), Criminal Procedure Code (CrPC), Evidence Act, and POCSO Act and provided for stringent punishment for rape of children and women.

The Department of Justice (DOJ) of the Ministry of Law and Justice is implementing the scheme through State/UT Governments and High Courts in close coordination. The scheme aims at effective implementation of the Criminal Law Amendment Act, 2018 by ensuring targeted disposal of pending rape and POCSO cases i.e., 41 - 42 cases in each quarter and at least 165 cases in a year. Under the framework of this scheme, one Judicial Officer and seven staff members are appointed in each court. As per the centrally

sponsored scheme (CSS), 60 percent of the amount is supposed to come from the Centre while the remaining 40 percent has to be borne by the respective State governments themselves. This ratio of 60:40 is applicable to all States except the North Eastern States including Sikkim and three hilly States i.e., Jammu & Kashmir, Himachal Pradesh and Uttarakhand, where the financial sharing will be in the ratio of 90:10.

The scheme was initially for one year, which was extended up to March 2023. The Union Cabinet has further extended the Scheme for another three years, from 1 April 2023 to 31 March 2026, at a total outlay of Rs. 1952.23 cr. including Rs. 1207.24 cr. as Central Share to be incurred from Nirbhaya Fund.

These FTSCs sought to demonstrate the commitment of the Government towards women security, combating sexual and gender-based violence, reducing the backlog of pending cases related to rape and POCSO Act, and providing enhanced access to justice for survivors of sexual crimes. As per the information provided by the High Courts on the FTSCs dashboard, a total of 81,471 cases were newly instituted from January - December 2023, while 76,319 cases have been disposed of during the period, resulting in a disposal rate of 93.6 percent<sup>9</sup>.

## **Implementation of the Scheme**

Notably, there have been two third-party evaluations of the Scheme carried out under the direction of the Department of Justice, Ministry of Law and Justice, Government of India.

The first evaluation was carried in 2020 by the National Productivity Council under the

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8 Third Party Evaluation of the Scheme on FTSCs & Expeditious Disposal of Cases of Rape and POCSO Act, Indian Institute of Public Administration, 2023

9 Press release Detailm: Press Information Bureau (pib.gov.in), accessed on 28 August 2024

Ministry of Commerce & Industry, Government of India<sup>10</sup>, which observed that the Scheme implementation during 2019-20 to 2020-21 had made only marginal improvements in expeditious disposal of rape and POCSO cases across India. It noted that many High Courts have come on board for implementing the Scheme and despite being an excellent model, FTSCs/ exclusive POCSO (e-POCSO) Courts have been grappling with systemic defects. Considering the importance of the scheme and its contribution towards the much-needed expeditious disposal of cases, it recommended that the Centrally Sponsored Scheme needs to be continued for at least two financial years, with additional funds and professional project management systems in place and regular monitoring by Department of Justice, Ministry of Law and Justice, Government of India.

The second evaluation was undertaken in 2023 by the Indian Institute of Public Administration (IIPA) and key recommendations given by IIPA and the States/Union Territories, included:

- IIPA strongly recommended the continuation of this scheme for at least three years as its primary objective is to handle cases of sexual offences against women and children through a streamlined and expedited judicial process.
- To expedite trials, States and High Courts must strengthen parameters, including appointing Special Judges experienced in POCSO cases, ensuring sensitization training, and appointing female public prosecutors.
- The courtrooms need to be upgraded with modern technology, such as audio and video recording systems and LCD projectors. To be at par with the current evolving technologies, the court could enhance IT systems including electronic case filing and digitalization of court records.

- Forensic Labs to increase and to train manpower to expedite the pending cases in courts and ensure timely submission of DNA Reports.
- Vulnerable Witness Deposition Centers (VWDCs) should be established in all districts to facilitate a better process of recording victim testimonies, thereby initiating a smoother court proceeding. The States should take initiative to conduct the trial in a way that is child-friendly, behind closed doors without disclosing the child's identity. Further, every FTSC should have a child psychologist to assist the child with rigorous pre-trial and trial procedures

As per the information received from the High Courts up to May 2024, 755 FTSCs including 410 exclusive POCSO (e-POCSO) Courts are functional in 30 States/UTs across the country, which have disposed of over 2,53,000 cases.

As the implementation of the scheme completed three years between 2020 and 2022, there is a need to evaluate the cost-effectiveness of these courts in facilitating expeditious trial and disposal of rape and POCSO cases. Thus, the objective of this paper is to analyze the cost incurred by the central government in establishing and operating FTSCs, as well as examine the pendency and disposal status of cases in FTSCs across states.

To gather data for this paper, details on functional FTSCs, funds released, and the pendency and disposal status of FTSCs across states were obtained from recent Rajya Sabha and Lok Sabha questions and answers. Additionally, information on the distribution of pending cases between rape and POCSO cases was collated from the Crime in India reports published by the National Crime

<sup>10</sup> Third Party Evaluation of the Scheme on FTSCs for Expeditious Disposal of Cases of Rape and POCSO Act, National Productivity Council, 2020

Records Bureau, Ministry of Home Affairs, Government of India. These sources provide the necessary information to assess the cost-effectiveness and performance of FTSCs in different states.

## **Review of Literature**

Empirical research focusing on the cost efficiency of courts and its relationship with disposal patterns in India is sparse, primarily due to the lack of comprehensive and easily accessible data on court expenditures and pendency/disposal rates. However, there have been notable studies conducted both within and outside of India that have separately analyzed the cost efficiency of courts and disposal patterns.

Buscaglia and Ulen (1997)<sup>11</sup> examined the impact of expenditure on judicial efficiency and concluded that higher spending on the judicial system does not necessarily lead to improved efficiency. They found that increased resources often result in a higher demand for judicial services, leading to more case filings rather than enhanced efficiency.

A study investigating the cost efficiency of Swedish district courts during the period 2012-2015<sup>12</sup> reported significant cost inefficiency primarily attributed to allocative inefficiencies, such as having an incorrect input mix or paying excessive amounts for inputs. The average cost efficiency was found to be 87 percent, indicating that Swedish district courts could produce the same output using only 87 percent of their actual expenditure.

Within India, a study conducted in Mumbai between 2006 and 2008<sup>13</sup> found that the

average time taken from the initiation of a lawsuit in court to the execution of the decree was 1420 days. The cost of commercial litigation was found to be 39.6 percent of the total claim, with lawyer's fees accounting for the highest portion at 30.6 percent. Court-related expenses accounted for 8.5 percent of the total claim, while the cost involved in executing the decree represented 0.47 percent of the total claim.

Tata Trusts (2019) highlighted the low priority given to the efficient functioning of the judiciary in state budget allocations. States typically allocate only 0.08 percent of their budgets to the judiciary, excluding expenditure by the central government. The study emphasized the increasing caseload faced by judges due to vacancies and the low judge-population ratio, with one subordinate court judge serving approximately 50,000 people. Additionally, there is a shortfall of approximately 18 percent in the availability of courtrooms in terms of physical infrastructure. Drawing on data from the Annual Reports published by the Supreme Court from 2015-16 to 2018-19, Dawer (2022)<sup>14</sup> identified the insufficient number of judges as the major reason behind the persistent backlog in the Supreme Court, high courts, and subordinate courts of India, thereby negatively impacting court efficiency.

While these studies provide valuable insights into the cost efficiency and disposal patterns of courts, there is a need for more research specifically focusing on the Indian context to further understand and address the challenges faced by the judicial system in India, more specifically in the context of heinous crimes committed against women and children.

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11 Buscaglia, E., & Ulen, T. (1997,). A quantitative assessment of the efficiency of the judicial sector in Latin America. ScienceDirect. June1

12 Månsson, J., Andersson, C. & Bonander, F. (2022), What lessons can be learned from cost efficiency? The case of Swedish district courts. *Eur J Law Econ* 54, 431–451, <https://doi.org/10.1007/s10657-022-09739-4>

13 International Finance Corporation, "Doing Business Study" 2008, [www.doingbusiness.org](http://www.doingbusiness.org)

14 Dawer, A., (2022). Analysing Judicial Efficiency of Indian Courts (CSEP Discussion Note 12). New Delhi: Centre for Social and Economic Progress

## **Objective and Data Source**

In view of the year-on-year increase in cases of sexual violence against women and children and the delay in case trials, the India Child Protection has undertaken the present study to access the functioning of FTSCs, which are created as per the directives of the Hon'ble Supreme Court of India in 2019 for speedy disposal of such cases, in terms of disposal of rape and POCSO cases.

To fulfil the above objective, multiple secondary data sources have been used for gathering relevant information. The secondary data sources consisted of the Crime in India Reports published by the National Crime Records Bureau from the year 2020 to 2022, various parliament questions and answers, and information published by the Press Information Bureau. The study also used case files from the Access to Justice for Children Programme (A2J) to understand the impact of delay in case trial on victims. Access to Justice is one of world's largest legal intervention initiatives working against child sexual abuse. It works to ensure that crimes against children do not go unpunished, and that survivors receive justice and rehabilitation. In 2023-24, through 161 civil society organisations working in 257 districts of India, the programme supported access to justice and psychosocial support to 122,715

child victims of sexual abuse, trafficking for labour/sexual exploitation, or forced into child marriages. In the last six months, the programme has expanded to over half the districts in India (416) partnering with 218 civil society organisations.

List of Parliament questions and answers referred to for information

- Lok Sabha Unstarred Question No. 3144 Dt. 9th August 2024, Ministry of Law and Justice Department of Justice, Government of India
- Lok Sabha Unstarred Question No. 1997 Dt. 2nd August 2024, Ministry of Women and Child Development, Government of India
- Lok Sabha Starred Question No. \*102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India
- Lok Sabha Unstarred Question No. 1499 Dt. 10th February 2023, Ministry of Law and Justice Department of Justice, Government of India
- Lok Sabha Unstarred Question No. 1717 Dt. 11th February 2022, Ministry of Law and Justice Department of Justice, Government of India



## Functional vs Earmarked FTSCs

For expeditious trial and disposal of cases related to rape and POCSO Act, the scheme has earmarked setting up a total of 1023 FTSCs (including 389 e-POCSO courts handling POCSO cases exclusively). Nonetheless, as of May 2024, the operational count of Fast Track Special Courts (FTSCs), comprising 755 units, with 410 among them being e-POCSO courts, indicates that the total number of currently operational FTSCs accounts for only 74 percent of the originally designated target. The delay in establishing these courts inevitably leads to further delays in delivering justice to the victims, as lakhs of cases still remain pending.

Among the States and Union Territories, there are 21 where the number of functional FTSCs is equal to the earmarked number, indicating that the target for establishing FTSCs has been achieved in those regions. The records of Odisha (97%), Andhra Pradesh (88%), and Kerala (98%) in adhering to the directions of the Hon'ble Supreme Court are encouraging. However, it is disconcerting to note that Arunachal Pradesh, and the Andaman and Nicobar Islands could not establish the FTSCs as of May 2024, disregarding the directives of the Hon'ble Supreme Court.

According to a very recent news article published in The Economic Times (27th August 2024), while responding to the letter of the Chief Minister of West Bengal to the Prime Minister regarding setting up fast-track courts, the Union Women and Child Development Minister highlighted the West Bengal government's failure to implement the

FTSC scheme and stated that 123 FTSCs were allocated to the state but none of them are functional yet<sup>15</sup>.

The FTSC Scheme was launched initially for one-year, w.e.f. 02.10.2019, spread over two financial years, 2019-20 and 2020-21. The Cabinet, in its meeting held on 04.08.2021, further approved the continuation of the scheme for two more financial years (FY 2021-22 and FY 2022-23) up to 31.03.2023.

In November 2023, the Union Cabinet chaired by Prime Minister Shri Narendra Modi has approved the further continuation of Fast Track Special Courts (FTSCs) as, a Centrally Sponsored Scheme (CSS) from 01.04.2023 to 31.03.2026<sup>16</sup>.

However, according to a news article published in The Hindu, only the operational FTSCs have been extended till March 2026, i.e. 761 FTSCs have been extended instead of 1,023<sup>17</sup>. However, as per the recent data only 755 FTSCs are functional. There is no clarity about the status of the remaining 268 earmarked FTSCs in the original scheme document.

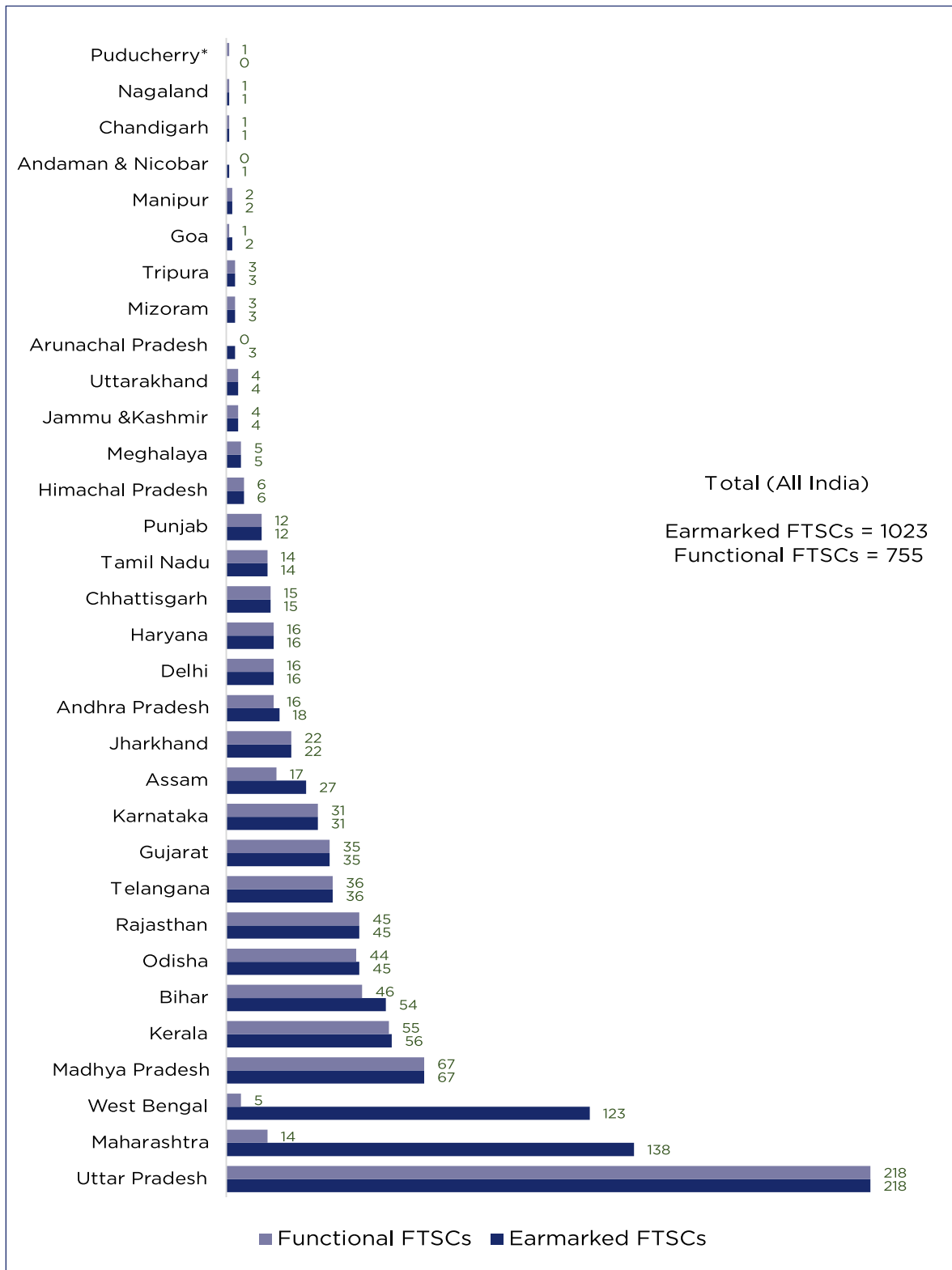
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15 [https://economictimes.indiatimes.com/news/india/123-fast-track-courts-allocated-but-none-of-them-are-functional-yet-centre-responds-to-mamata-banerjees-letter-to-pm-modi/articleshow/112823639.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/india/123-fast-track-courts-allocated-but-none-of-them-are-functional-yet-centre-responds-to-mamata-banerjees-letter-to-pm-modi/articleshow/112823639.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

16 <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1986756>

17 <https://www.thehindu.com/news/national/cabinet-gives-nod-for-extension-of-fast-track-special-courts-scheme-sources/article67586665>

**Figure 1: Functional Vs Earmarked FTSCs (including e-POCSO) across states/UTs**



\*Puducherry became the part of scheme in early 2022. Since the data for Earmarked FTSCs has been taken from Lok Sabha question dated on 11th February, 2022, therefore number of embarked FTSCs in Puducherry is 0.

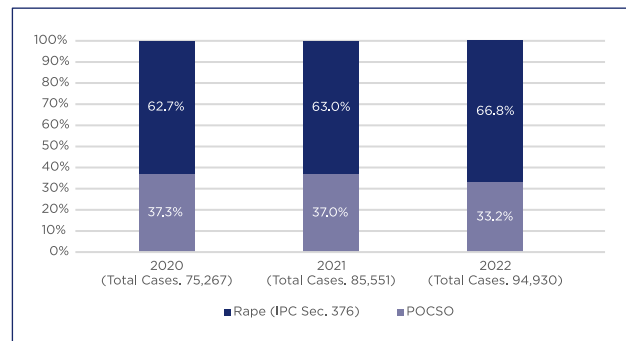
Source: Lok Sabha Unstarred Question No. 3144 Dt. 9th August 2024, Ministry of Law and Justice Department of Justice, Government of India; Lok Sabha Unstarred Question No. 1717 Dt. 11th February 2022, Ministry of Law and Justice Department of Justice, Government of India

# Extent of Rape and POCSO Cases in India

The distribution of cases under the POCSO Act and those registered as rape under Section 376 of the Indian Penal Code (IPC) from 2020 to 2022 is presented in the figure 2. Data from NCRB shows that the total number of such crimes against women and children has shown a significant upward trend, increasing from 75,267 cases in 2020 to 94,930 cases in 2022. POCSO cases have consistently constituted the majority, accounting for 63 percent of the total in 2020, which increased to 67 percent by 2022. Conversely, the proportion of rape cases under Section 376 has seen a gradual decline, from 37 percent in 2020 to 33 percent in 2022. This trend suggests a growing emphasis on addressing crimes against children,

as reflected in the rising share of POCSO cases, possibly due to enhanced awareness and reporting mechanisms.

**Figure 2: Percentage distribution of total rape and POCSO cases in India**



Source: Crime in India Report 2020-2022, National Crime Records Bureau



## Cases Pending and Disposed by Courts During 2020-22

The data from the Crime in India report published by the National Crime Records Bureau for 2020 to 2022 reveals a trend in the judicial handling of cases under the POCSO Act and IPC Section 376 (rape). Over these three years, **the number of cases pending trial from the previous year has consistently increased, from 2,81,049 in 2020 to a staggering 4,17,673 by the end of 2022.** This steady rise indicates a growing backlog in the judicial system.

Despite the challenges, there has been a gradual improvement in the disposal of cases by the courts. In 2020, only six (6) percent of the total cases for trial were disposed. This percentage saw a slight increase in 2021, with seven (7) percent of cases being disposed by courts. By 2022, the disposal rate increased to 10 percent. While this upward trend is a positive sign, **the overall disposal rates remain low**, particularly in the context of the growing number of pending cases.

The data further highlights the urgent need for more effective judicial interventions to address the backlog and expedite justice, particularly in sensitive cases involving sexual offenses against women and children. While there has been some progress in the disposal of cases, the rising number of pending cases highlights the limitations of the current system.

**Analysis indicates that the overall disposal of rape and POCSO cases increased by 149 percent (from 19,520 in 2020 to 48,650 in 2022). During the same period pendency increased by 27 percent (from 32,9931 in 2020 to 4,17,673 in 2023).**

**Table 1: POC SO and rape cases pending and disposed by courts between 2020-2022**

Crime Heads	2020		2021		2022	
	Protection of Children from Sexual Offences Act.	Rape (IPC Sec 376) Total	Protection of Children from Sexual Offences Act.	Rape (IPC Sec 376) Total	Protection of Children from Sexual Offences Act.	Rape (IPC Sec 376) Total
Cases Pending Trial from Previous Year	1,35,184	1,45,865	1,70,382	1,59,672	2,08,272	1,71,777
Cases Sent for Trial during the Year	44,709	23,693	51,129	26,164	59,766	26,508
Total Cases for Trial	1,79,893	1,69,558	2,21,511	1,85,836	2,68,038	1,98,285
Cases Disposed by Courts	9,622	9,898	16,477	12,120	28,850	19,800
Cases Pending Trial at End of the Year	1,70,271	1,59,660	2,05,034	1,73,716	2,39,188	1,78,485
<b>% of cases disposed at the end of the year</b>	<b>5%</b>	<b>6%</b>	<b>7%</b>	<b>7%</b>	<b>11%</b>	<b>10%</b>

Source: Crime in India Report 2020-2022, National Crime Records Bureau

Further, Sections 289 and 359 of the Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 (corresponding to Sections 265A and 320 of the CrPC) must be strictly adhered to when dealing with cases of crimes against women and children, as these provisions explicitly prohibit compromise and plea bargaining in such cases. Despite prohibition, an analysis of NCRB data reveals that in 2022, 28,850 out of 2,39,188 POCSO cases were disposed-off. Of these disposed cases, 348 were compromised or compounded, and plea bargaining was accepted in 4 cases.

Similarly in rape cases, 19,800 out of 1,78,485 cases were disposed-off. Of these disposed cases, 558 were compromised or compounded, and plea bargaining was accepted in 7 cases. It is imperative to assess how plea bargain and compromise are being considered and applied at the Courts.

**Between 2020-22, 1,676 (Rape-818; POCSO-858) cases were compromised or compounded, and in 77 (Rape-25; POCSO-57) cases, plea bargaining was accepted by the courts.**

**Table 2: Number of cases compounded and disposed by plea bargaining**

Disposal of cases	2020			2021			2022		
	POCSO Act	Rape (IPC Sec 376)	Total	POCSO Act	Rape (IPC Sec 376)	Total	POCSO Act	Rape (IPC Sec 376)	Total
Cases Compounded or Compromised	183	103	<b>286</b>	327	157	<b>484</b>	348	558	<b>906</b>
Cases Disposed by Plea bargaining	34	6	<b>40</b>	14	12	<b>26</b>	4	7	<b>11</b>

Source: Crime in India Report 2020-2022, National Crime Records Bureau

# Disposal of Cases in Fast Track Special Courts

The data on the functioning of FTSCs from 2020 to 2023 provides insight into the progress and efficiency of these courts in handling cases. The number of FTSCs, including e-POCSO Courts, has increased over this period, from 599 in 2020 to 757 by the end of 2023. This expansion indicates a concerted effort to enhance the capacity of the judicial system to address the backlog of cases related to sexual offenses.

The number of cases for trial each year has also increased, from 1,95,991 in 2020 to 2,78,494 in 2023, reflecting both the addition of new cases and the continuing challenge of managing pending caseloads. Correspondingly, the number of cases

disposed by the FTSCs each year has seen significant improvement, with 37,148 cases disposed in 2020, rising to 76,319 in 2023 (increased by 105%). This increase in case disposal indicates a positive trend in the Fast Track Special Courts' ability to complete trial of cases more efficiently over time.

The percentage of cases disposed during the year out of the total cases for trial has also shown an increase, rising from 19 percent in 2020 to 27 percent in 2023. This suggests that, despite the growing number of cases, FTSCs have been increasingly effective in disposing cases in a time bound and speedy manner.

**Table 3: Number of FTSCs and cases disposal status**

Functioning of FTSCs	No. of FTSCs and cases disposal status			
	2020 (as of 31.12.2020)*	2021 (as of 31.12.2021)*	2022 (as of 31.12.2022)*	2023 (as of 31.12.2023)#
Total No. of FTSCs (including e-POCSO Courts)	599	700	768	757
No. of cases for trial during the year (No. of cases disposed off during the year + No. of cases pending at the end of the Yr)	1,95,991	2,58,570	2,63,167	2,78,494
No of cases disposed during the year	37,148	73,627	64,959	76,319
No. of cases pending at the end of the year	1,58,843	1,84,943	1,98,208	2,02,175
No. of cases newly instituted during the year (Total cases for trial during the Yr - No. of cases pending at the end of the previous Yr)	29,109	99,727	78,224	81,471
<b>% cases disposed during the year out of the total cases for trial</b>	<b>19%</b>	<b>28%</b>	<b>25%</b>	<b>27%</b>

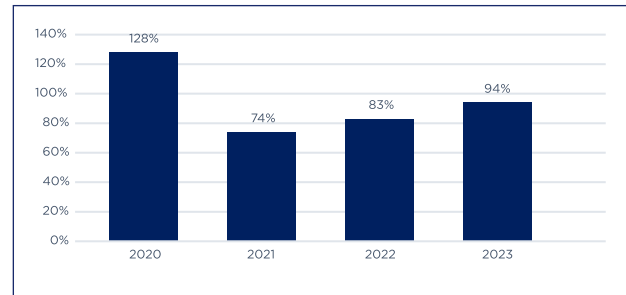
Source: #Lok Sabha Starred Question No. 102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India; \*Lok Sabha Unstarred Question No. 1499 Dt. 10th February 2023, Ministry of Law and Justice Department of Justice, Government of India

The percentage of cases disposed during the year out of the total newly instituted cases reflects increasing efficiency. Data shows that year-on-year majority of the cases sent to FTSCs were disposed. In 2020, due the COVID-19 number of cases reported were less because of which the percentage of cases disposed during the year out of the newly instituted cases is very high. In the succeeding years however, the number of newly added cases increased, of which the majority of the cases were disposed. **Data shows that percentage of cases disposed during a year increased by 20 percent (from 74% in 2021 to 94% in 2023).**

As mentioned above, courts (including FTSCs) on an average, disposed off only eight (8) percent of cases of POCSO Act and rape (IPC 376) from 2020 to 2022. **During 2022, the number of rape and POCSO cases disposed across the country by all courts (including FTSCs) was 10 percent, whereas the disposal by FTSCs was 83 percent during the same period.** In 2023, the disposal of cases further increased to 94 percent. As per the information provided by the High Courts on the FTSCs dashboard, published in the PIB on 9th February 2024, 81,471 cases were newly instituted between January and December 2023, of which 76,319 cases (94%) were successfully disposed.

This substantial difference between the disposal rate of cases in FTSCs as compared to all courts of the country highlights the exceptional effectiveness of FTSCs in accelerating the judicial process and delivering timely justice in cases involving sexual offenses.

**Figure 3: Percentage of cases disposed by courts**



Source: Lok Sabha Starred Question No. 102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India; Lok Sabha Unstarred Question No. 1499 Dt. 10th February 2023, Ministry of Law and Justice Department of Justice, Government of India

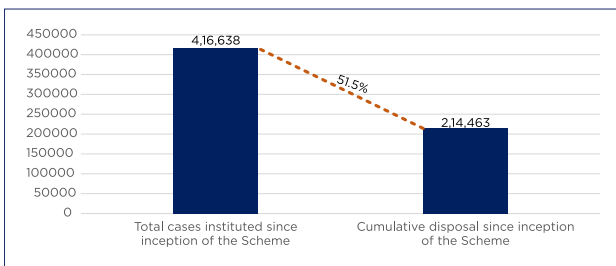
Overall, the data suggests that FTSCs have been instrumental in improving the rate of case disposal, even as the number of cases for trial has continued to grow. The increase in the number of FTSCs and the corresponding rise in disposal rates reflect the states' efforts to provide timely justice, particularly in cases involving sexual offenses against women and children.

***Each year, if the number of cases disposed is equal to or higher than the number of new cases instituted during the same year for trial, the pendency will either remain the same or will decline. This is the ideal situation that every country wishes to achieve. In other words, it can also be considered the tipping point to ensure speedy and timely justice to the victims of any crime. The latest FTSC disposal rate indicates that India is very close to achieving this tipping point.***



Further, since the inception of the FTSCs, a total of 4,16,638 cases have been instituted, of which 2,14,463 cases have been successfully disposed. This indicates that FTSCs have effectively disposed 52 percent of the cases, demonstrating the commitment of the state towards combating sexual violence, reducing the backlog of pending cases related to rape and POCSO, and providing expeditious access to justice for survivors of sexual crimes.

**Figure 4: Percentage of cases disposed by FTSCs since inception**



Source: Lok Sabha Starred Question No. 102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India

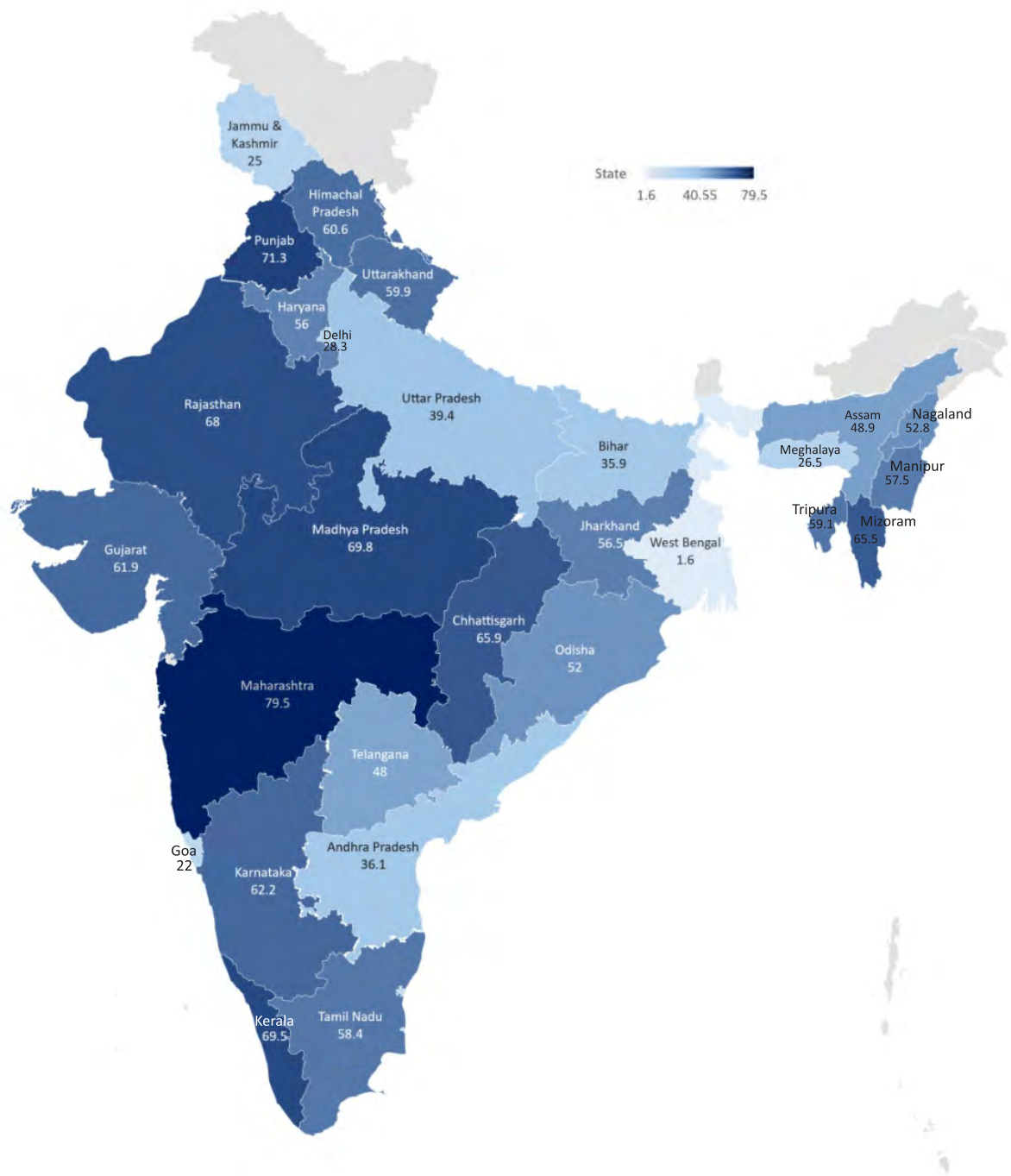
### State Wise Disposal of Cases by FTSCs

An analysis of the state-wise data indicates that the disposal rate by FTSCs vary widely. States such as **Maharashtra (80%) and Punjab (71%) have recorded high rate of disposal of cases which is also higher than the national average (52%), while the state/UTs like Puducherry and West Bengal have recorded lowest rate of disposal i.e. 17 percent and two (2) percent respectively.** Data given in the PIB<sup>18</sup> shows that the rate of disposal in **20 out of the 30 states/UTs, where FTSCs are functional is higher than the national average.**

Regarding the average number of cases disposed by each FTSC at state level, **Maharashtra stands out with an average of 890 cases (out of 16907) disposed since inception followed by Tamil Nadu and Madhya Pradesh with 445 (out of 6228) and 352 (out of 23613) cases respectively. Similarly, Maharashtra (222) also has the highest average number of cases disposed per year by each functional FTSC, followed by Tamil Nadu (111) and Madhya Pradesh (88)** (for state wise details, refer to Annexure 1). Lowest number of case disposal has been recorded by West Bengal, where average number of cases disposed each year since inception stands at 16 by 4 functional FTSCs.

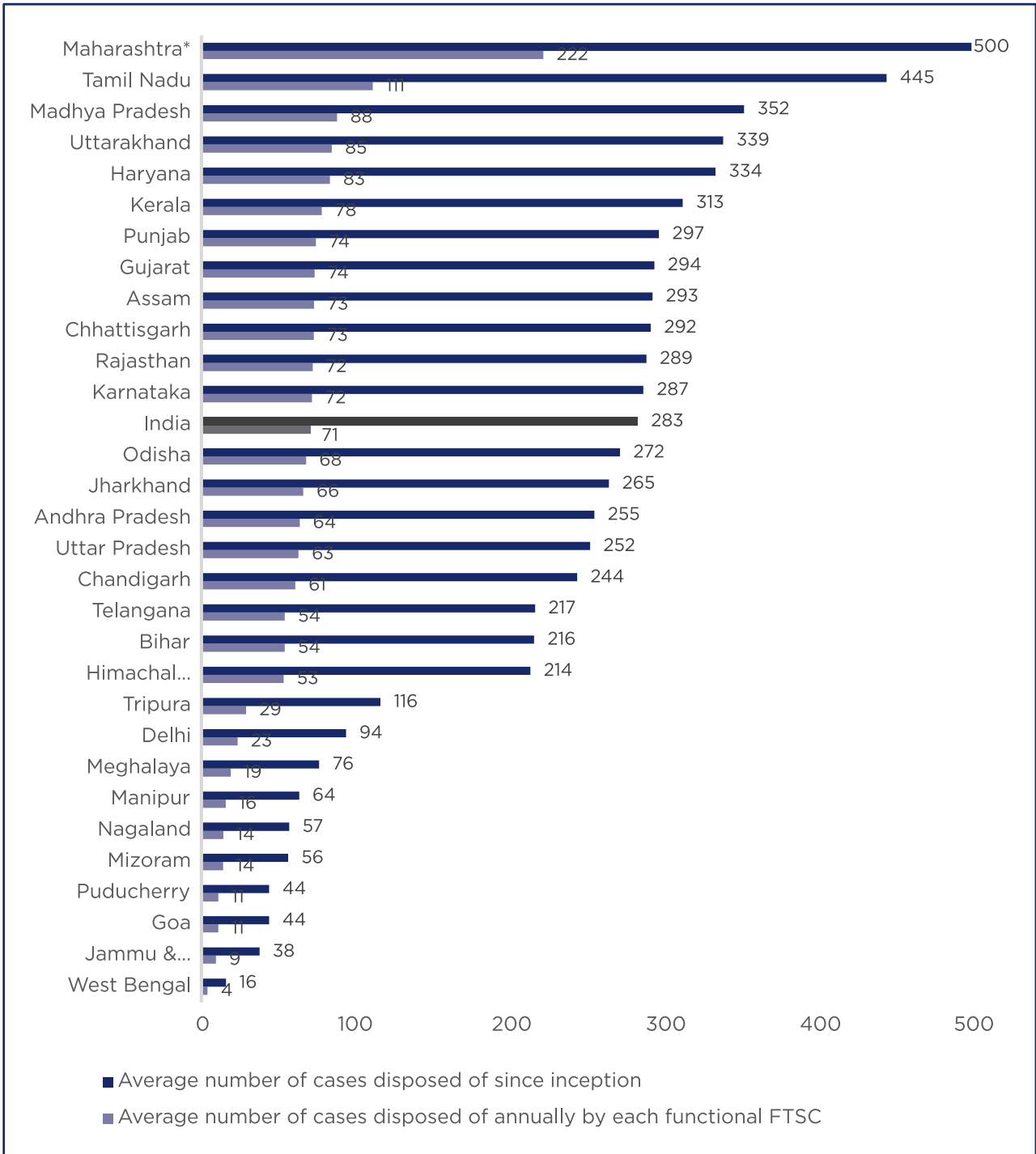
18 Press Information Bureau released on 9<sup>th</sup> February 2024 in reply to Lok Sabha Starred Question No. \*102

Figure 5: State-wise rate of disposal of cases by FTSCs as of December, 2023



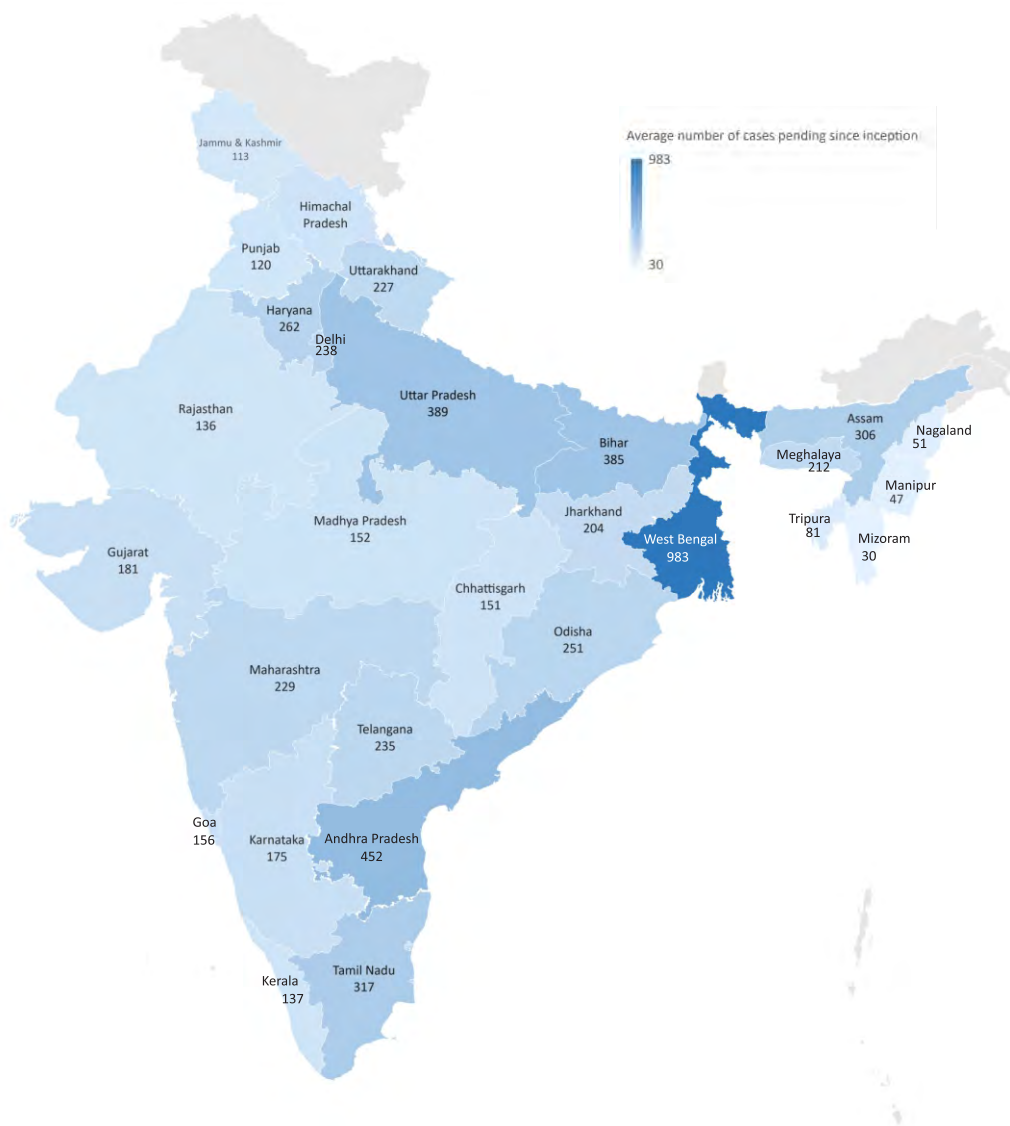
Source: Lok Sabha Starred Question No. 102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India

**Figure 6: State-wise average number of cases disposed per functional FTSC since inception of the scheme and per year**



Source: Lok Sabha Starred Question No. 102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India

**Figure 7: Average number of cases pending per functional FTSCs as of December, 2023**



Source: Lok Sabha Starred Question No. 102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India.

Analysis of the data regarding average number of pending cases from Press Information Bureau reveals that West Bengal (983) has the highest number of pending cases since inception per FTSC followed by Andhra Pradesh and Uttar Pradesh with 452 and 389 cases respectively and Mizoram records for the lowest reported number of cases pending, with an average of 30 cases pending as of December 2023 (for state wise details, refer to Annexure 2).

The analysis of data reveals the number of backlog case in India and the average number of years the country needs to clear these backlogs. Given the backlog of 2.02 lakh rape and POCSO cases that are still pending trial at the FTSC level, it will take three (3) years for the existing operational FTSCs to clear the backlog of these rape and POCSO cases.

**Table 4: Total number of rape (IPC Sec 376) & POCSO cases for trial (all courts including FTSCs across the country)**

Crime Heads	Total No. of Rape (IPC Sec 376) & POCSO Cases for trial (All courts including FTSCs across the country )	
	2022	2023
Cases Pending Trial from the Previous Year	3,80,049	4,17,673
Cases Sent for Trial during the year	86,274	81,471
Total Cases for Trial	4,66,323	4,99,144
Cases Disposed of by Courts	48,650	76,319
Cases Pending Trial at End of the Year across the country (including FTSCs)	4,17,673	4,22,825
Cases Pending for trial at FTSCs		2,02,175
Approximate No. of years FTSCs may take to clear backlog of rape and POCSO cases pending at FTSC level		3
<p><b>Note: The number of cases instituted and disposed of during 2023 is based on the FTSC database. Details pertaining to the Rape and POCSO cases under trial in other courts are not available and hence not included. Hence, the number of pending cases in the country at the end of 2023 will be higher than the estimated number presented in this table</b></p>		

Source: Lok Sabha Starred Question No. 102 Dt. 9th February 2024, Ministry of Law and Justice Department of Justice, Government of India; Crime in India, National Crime Records Bureau

# Fund Released and Average Operational Cost per FTSC

Being a centrally sponsored scheme, 60 percent of the funds for establishing and functioning of FTSCs in states/UTs are contributed by the central government and 40 percent by state & UT governments. This ratio of 60:40 is applicable for all states except North-Eastern states including Sikkim and three hilly states i.e. Jammu & Kashmir, Himachal Pradesh and Uttarakhand where the sharing is in the ratio of 90:10. The central government releases funds to the states for establishing/ functioning of FTSCs in tranches and data on the same is available for financial years (2019-20, 2020-21, 2021-22).

Initially launched for a period of one year (spread over two Financial Years 2019-20 and 2020-21) at a total outlay of INR 767 Cr. with INR 474 Cr. as central share, the scheme was continued up to March 2023 with a total budgetary outlay of INR 1,573 Cr. for two Financial Years 2021-22 and 2022-23, with INR 972 as central share. In the current financial year 2024-25, a total of IN 200.00 Cr. has been released as a Central share of funds for the functioning of such FTSCs in the States/ UTs. In view of the large number of pending cases, the Department of Justice has initiated action for an extension of the scheme for three more years i.e., up to 2026, with a total proposed outlay of INR 1952 crore<sup>19</sup>.

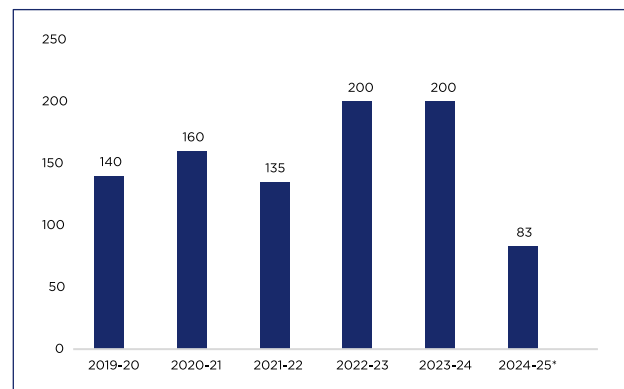
The information provided by the Ministry of Law and Justice, Department of Justice, Government of India in Lok Sabha in February 2023 has been used as the data source for this section. It is the amount released to states and includes the only share of center.

Further, to estimate the average expense incurred per FTSCs and the average cost incurred per disposal of cases, the amount released in the financial year (2019-20, 2020-21, 2021-22) and number of court and disposal for the calendar year 2020, 2021 and 2022 respectively has been taken into consideration.

## Amount Released for FTSCs

Total funds released for establishing and functioning of FTSCs in the country stood at INR 140 cr. in FY 2019-20, 160 cr. in FY 2020-21, INR 135 cr. in FY 2021-22, the highest being released in the FY 2022-23 and FY 2023-24 i.e. 200 cr (for state wise details, refer to Annexure 3).

**Figure 8: Total amount released for FTSCs (in crore)**



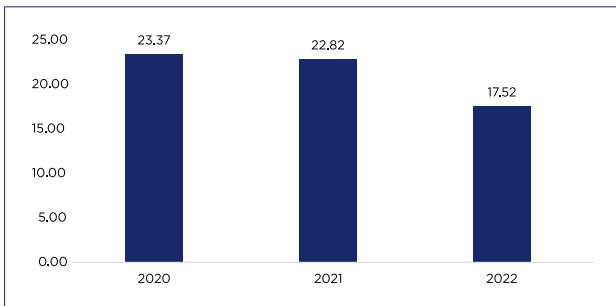
\*For the year 2024-25, 83 crores has been released till date.

Source: Lok Sabha Unstarred Question No. 3144 Dt. 9th August 2024, Ministry of Law and Justice Department of Justice, Government of India

### Average Operating Cost per FTSC

Based on the information pertaining to the total funds released to the states for functioning of FTSCs over the past three years, the average operating/ functioning cost per FTSC works out to be INR 23.37 lakhs in 2020, which is estimated to have reduced marginally to INR 22.82 lakhs in 2021. However, in 2022, the average cost was reduced substantially to INR 17.52 lakhs as compared to 2021 (reduced by 23%) at the all-India level. The gradual reduction in the operational cost of FTSCs is a positive development as it supports the ongoing efforts for the continuance of the scheme for expeditious trial and disposal of cases of rape and POCSO.

**Figure 9: Average operating cost per FTSC (2020-2022) (in lakh)**



Source: Lok Sabha Unstarred Question No. 1499 Dt. 10th February 2023, Ministry of Law and Justice Department of Justice, Government of India

### State Wise Average Operating Cost per FTSCs

The analysis of the average operating cost per FTSC across various states reveals a notable downward trend from 2020 to 2022 in several regions. Specifically, states such as Assam, Karnataka, Tamil Nadu, Uttarakhand, and Gujarat have experienced significant reductions in their FTSC operating costs. In contrast, states like Madhya Pradesh, Chhattisgarh, Rajasthan, Odisha, and Bihar have seen an upward trend in operating costs over the same period.

For other states, including Maharashtra, Punjab, Telangana, Kerala, and Andhra Pradesh, the operational costs per FTSC have remained relatively stable, showing no discernible trend over the three years, except for the year 2020. It is also important to note that no funds were allocated to Delhi, Goa, and Meghalaya for FTSC operations during the entire period under review.

**Table 5: State-wise average cost incurred per FTSC (2020-2022) (in lakh)**

Serial No.	State/UT	2020	2021	2022
1	Andhra Pradesh	22.5	0.0	0.0
2	Assam	40.8	12.5	19.9
3	Bihar	4.5	33.9	45.0
4	Chandigarh	18.8	0.0	0.0
5	Chhattisgarh	22.5	22.5	28.4
6	Delhi	0.0	0.0	0.0
7	Goa	0.0	0.0	0.0
8	Gujarat	22.5	22.5	0.0
9	Haryana	22.5	22.5	22.5
10	Himachal Pradesh	33.8	25.3	0.0
11	Jammu & Kashmir	0.0	0.0	65.9
12	Jharkhand	24.8	22.5	0.0
13	Karnataka	49.8	0.0	22.1
14	Kerala	36.5	0.0	0.0
15	Madhya Pradesh	22.8	22.5	39.1
16	Maharashtra	124.2	0.0	0.0
17	Manipur	0.0	33.8	16.9
18	Meghalaya	0.0	0.0	0.0
19	Mizoram	0.0	33.8	67.5
20	Nagaland	0.0	33.8	0.0
21	Odisha	36.0	3.6	36.8
22	Puducherry	0.0	0.0	0.0
23	Punjab	90.0	0.0	0.0
24	Rajasthan	13.0	32.0	43.9
25	Tamil Nadu	22.5	22.5	18.5
26	Telangana	42.6	0.0	0.0
27	Tripura	33.8	33.8	0.0
28	Uttar Pradesh	6.3	38.7	11.3
29	Uttarakhand	67.5	0.0	52.3
	<b>Total</b>	<b>23.4</b>	<b>22.8</b>	<b>17.5</b>

Source: Lok Sabha Unstarred Question No. 1499 Dt. 10th February 2023, Ministry of Law and Justice Department of Justice, Government of India.



# Conviction in POCSO and Rape Cases Disposed by Courts

The 2022 data on POCSO and rape cases presented in NCRB, crime in India report 2022 indicates that out of 48,650 cases disposed by the courts, 29 percent resulted in convictions.

Assuming, that the conviction rate observed in other courts is same in FTSCs since inception as well as in cases instituted in 2023. Thus, estimating that out of a total of 2,144,63 cases disposed by FTSCs since inception,

approximately 62,194 cases might have ended in conviction. Further, for the year 2023 alone, from a total of 76,319 cases, around 22,133 would have been convicted.

However, it is important to consider that some convicted cases may still be subject to appeals, which could contribute to an increased load on the judiciary and affect the overall case disposal rates.

**Table 6: Disposal of POSCO and rape cases**

Disposal of cases	Disposal of POSCO and Rape cases			
	Protection of Children from Sexual Offences Act.	Rape (IPC Sec 376)	Total	Percentage
Cases Convicted	8,909	5,067	13,976	29%
Cases Discharged	1,024	1,388	2,412	5%
Cases Acquitted	18,202	12,062	30,264	62%
Cases disposed without trial	715	1,283	1,998	4%
<b>Total Cases Disposed by Courts</b>	<b>28,850</b>	<b>19,800</b>	<b>48,650</b>	<b>100%</b>

Source: Crime in India 2022, National Crime Records Bureau

# An Analysis of Case Files of Access to Justice for Children Programme

Under the present study, a review of 122 select judgements by special courts under the POCSO Act, 2012, has been undertaken to gain an understanding of the vulnerabilities of the victims and the functioning and dispensation of justice by the courts.

These judgements were accessed by the Access to Justice for Children programme partners where the POCSO victims have been supported by the programme – either through a support person or a legal counsel, or both. The judgements studied for this paper are from 23 districts of 6 States / Union Territories, i.e., Andaman and Nicobar Islands, Bihar, Haryana, Madhya Pradesh, Rajasthan, and West Bengal.

## Time Taken for Trial

As per Section 35(2) of the POCSO Act, 2012, “The Special Court shall complete the trial, as far as possible within a period of one year from the date of taking cognisance of the offence.”

**However, the analysis reveals that the average time taken to complete a trial was 2 years and 10 months.** Bihar presented the most dismal picture. Among the 27 cases analysed, 41 percent of the cases took more than four years to complete, and 30 percent were completed between two to three years. Not a single case was tried within the stipulated time as prescribed by the law. The average time taken to complete a trial was 3 years and 6 months in the state. In West Bengal, three out of six cases analysed (50%) were decided in more than four years.

The reason behind the establishment of exclusive POCSO courts was that of speedy trial in cases of child sexual abuse and exploitation; however, evidently, the process continues to remain a challenge.

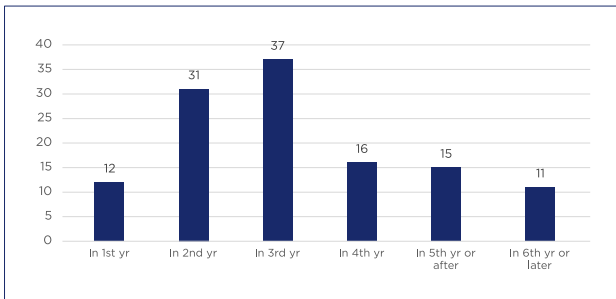
**Table 7: Time taken for trial**

Year of completion of Trial	A & N	Bihar	Haryana	Madhya Pradesh	Rajasthan	West Bengal	Combined
In 1st yr	0	0	6	2	4	0	12
In 2nd yr	1	4	12	3	10	1	31
In 3rd yr	0	8	13	6	8	2	37
In 4th yr	0	4	8	4	0	0	16
in 5th yr	0	6	2	4	2	1	15
in 6th yr or after	2	5	1	0	1	2	11
Average time taken for completion of cases	5 yrs 11 months	3 yrs 6 months	2 yrs 5 months	2 yrs 9 months	1 yr 11 months	4 yrs 1 month	2 yrs 10 months
<b>Total (N)</b>	<b>3</b>	<b>27</b>	<b>42</b>	<b>19</b>	<b>25</b>	<b>6</b>	<b>122</b>

Of the 122 cases, only 10 percent of the cases were completed within the stipulated time period as provided by law. The quickest trial was concluded in Haryana, involving a 16-year-old victim who was being stalked by a known 19-year-old male accused. The trial was completed in 5 months, and the accused was convicted under POCSO.

While 25 percent of the cases were completed between 1-2 years, 30 percent took between 2-3 years. Another, 25 percent of cases were completed between 3-5 years.

**Figure 10. Distribution of cases by duration of trial**



**Compensation Awarded**

Under the POCSO Act and Rules, the Special Courts can decide the question of

victim compensation and also determine the quantum of compensation and accordingly make a direction for the award of compensation. The said compensation shall be payable by the state government through schemes or funds established for such purposes.

Section 33(8) of the POCSO Act, 2012 empowers the Special Courts to direct payment of compensation in addition to punishment, for physical or mental trauma caused to the child, or for immediate rehabilitation. Rule 9 (Rule 7 earlier) of POCSO Rules, 2020 expands upon this provision and prescribes how, when, and on the basis of what factors, compensation can be directed by the Special Courts.

Of the 122 cases reviewed, in 61 percent of the cases, compensation was awarded by the courts. Bihar stood out in this regard with 93 percent success, followed by West Bengal at 67 percent, Haryana at 64 percent, and Rajasthan at 56 percent. Madhya Pradesh had a very poor record, with less than 16 percent of the caseload being awarded compensation.

**Table 8: Cases in which compensation awarded**

Name of State/UT	No. of Cases	No. of Victims	Cases in which compensation awarded	
			No.	%
Andaman & Nicobar Islands	3	3	2	67%
Bihar	27	27	25	93%
Haryana	42	43	27	64%
Madhya Pradesh	19	21	3	16%
Rajasthan	25	25	14	56%
West Bengal	6	11	4	67%
<b>TOTAL</b>	<b>122</b>	<b>130</b>	<b>75</b>	<b>61%</b>

## Compensation for Victims- A Case Study

Compensation is provided through the Victims' Compensation Scheme. The Scheme was initially silent on POCSO cases, and subsequently, through the judgement of the Hon'ble High Court of Delhi in "Manish vs. State of NCT of Delhi (Bail Application No. 619/2021)" (for related court order, refer to Annexure 5), compensation was made applicable in all POCSO cases. In the said case, the Hon'ble High Court of Delhi, vide its order dated 27.08.2021, identified significant shortcomings in the implementation of the Delhi Victim Compensation Scheme (DVCS), particularly concerning the award of compensation.

In 2019, the report submitted by the Registrar of the Hon'ble Supreme Court, in suo moto Writ Petition (Criminal) No. 1/2019, highlighted alarming data concerning POCSO cases, particularly those related to victim compensation, which also observed that interim/final compensation was being provided only in 1% of POCSO cases. During the course of hearing, glaring discrepancies in the release of compensation were found.

- DSLSA has collated a list of 87,405 FIRs between January 2012 and December 2017 which were not forwarded by the Delhi Police to DSLSA
- Out of 87,405 POCSO cases, DSLSA has been able to gather information on only 6,052 cases (7%)
- Of 6,052 cases, compensation has not been paid to 2,563 cases

On December 12, 2022, the Delhi High Court issued several important directions to address these concerns. It instructed the Principal District and Sessions Judges to ensure that records of disposed-off sexual offence cases be made available for inspection by volunteer lawyers provided by Bachpan Bachao Andolan

(BBA), a Non-Governmental Organisation of ICP. The court further clarified that the limitation period under the 2018 Scheme would not hinder the filing of compensation applications in disposed-off cases. It also directed concerned DLSA's to start moving applications for compensation and to report on its progress, with support from BBA, Rape Crisis Cell (RCC), Delhi Police, and the Directorate of Prosecution.

In early 2023, BBA volunteered to assist DSLSA by providing a team of lawyers to inspect judicial records of approximately 4,000 cases in the initial phase. However, practical challenges were encountered during the process, including the unavailability of case files in record rooms and other administrative hurdles. Nevertheless, BBA trained around 100 lawyers, who began their inspections in February 2023. By September 2023, BBA's panel of lawyers completed the inspection of 3,956 files, wherein they proposed compensation in 2,047 cases. However, as per the DSLSA's status report, action was recommended in only 1,315 of those cases.

The progress remained unsatisfactory, and by January 2024, DSLSA could only move applications in 128 cases. Moreover, 495 victims had declined to file applications, leaving 692 cases still pending with the authority.

Despite these substantial efforts, the overall project came to a standstill by January 2024. BBA on several occasions and platforms raised alarms about the lack of tangible progress. The ineffective coordination between stakeholders, particularly Delhi Police and DCW, brought to a halt the entire machinery that was geared up to assist the victims in their struggle for compensation. As of now, the endeavour to ensure compensation for POCSO victims remains largely unfulfilled, due to bureaucratic hurdles and administrative inefficiencies.

## Conclusion

For any country, the efficient management and disposal of cases is of paramount importance. When the number of cases disposed in a given year is equal to or greater than the number of new cases instituted during the same period, it results in either a maintenance or reduction of the pending cases, which is highly desirable for a country's judicial system. This scenario can be considered as the tipping point in ensuring speedy and timely justice for victims of any crime. By reaching this tipping point, the burden on the courts diminishes, allowing them to focus on timely completion of trials and reducing the backlog of cases.

The latest data on the disposal rate from the FTSCs reveals India's significant progress towards achieving this tipping point as the

number of rape and POCSO cases disposed by FTSCs in 2023 is 94 percent of total such cases instituted with FTSCs in the same year. This progress is especially significant for India, which has been grappling with the challenge of a substantial backlog of cases, especially the cases related to sexual violence against women and children. Therefore, the attainment of this tipping point is a significant milestone and a step forward for India's legal system, ensuring justice for victims of sexual violence.

Given the fact that the fast-track special court model is effectively achieving its goals, it is imperative that all pending POCSO and rape cases under trial in various courts across the country be transferred to these courts for speedy disposal and clearing of backlogs.

# Annexure 1: Average number of cases disposed by functional FTSCs as of December, 2023

Sl. No.	State/UT	Number of functional courts (FTSCs including e-POCSO)	Cumulative disposal since inception of the Scheme	Average number of cases disposed since inception	Average number of cases disposed annually by each functional FTSCs
1	Andhra Pradesh	16	4083	255	64
2	Assam	17	4979	293	73
3	Bihar	46	9939	216	54
4	Chandigarh	1	244	244	61
5	Chhattisgarh	15	4377	292	73
6	Delhi	16	1503	94	23
7	Goa	1	44	44	11
8	Gujarat	35	10295	294	74
9	Haryana	16	5342	334	83
10	Himachal Pradesh	6	1282	214	53
11	Jammu & Kashmir	4	151	38	9
12	Jharkhand	22	5822	265	66
13	Karnataka	31	8897	287	72
14	Kerala	54	16878	313	78
15	Madhya Pradesh	67	23613	352	88
16	Maharashtra	19	16907	890	222
17	Manipur	2	127	64	16
18	Meghalaya	5	382	76	19
19	Mizoram	3	169	56	14
20	Nagaland	1	57	57	14
21	Odisha	44	11960	272	68
22	Puducherry	1	44	44	11
23	Punjab	12	3565	297	74
24	Rajasthan	45	13003	289	72
25	Tamil Nadu	14	6228	445	111
26	Telangana	36	7799	217	54
27	Tripura	3	349	116	29
28	Uttarakhand	4	1355	339	85
29	Uttar Pradesh	218	55021	252	63
30	West Bengal	3	48	16	4
<b>TOTAL</b>		<b>757</b>	<b>214463</b>	<b>283</b>	<b>71</b>

## Annexure 2: Average number of cases pending with functional FTSCs as of December, 2023

Sl. No.	State/UT	Number of functional courts (FTSCs including e-POCSO)	Cumulative pendency	Average number of cases pending since inception	Average number of cases pending annually with each functional FTSCs
1	Andhra Pradesh	16	7231	452	113
2	Assam	17	5207	306	77
3	Bihar	46	17716	385	96
4	Chandigarh	1	203	203	51
5	Chhattisgarh	15	2264	151	38
6	Delhi	16	3810	238	60
7	Goa	1	156	156	39
8	Gujarat	35	6338	181	45
9	Haryana	16	4199	262	66
10	Himachal Pradesh	6	834	139	35
11	Jammu & Kashmir	4	453	113	28
12	Jharkhand	22	4486	204	51
13	Karnataka	31	5414	175	44
14	Kerala	54	7401	137	34
15	Madhya Pradesh	67	10193	152	38
16	Maharashtra	19	4355	229	57
17	Manipur	2	94	47	12
18	Meghalaya	5	1061	212	53
19	Mizoram	3	89	30	7
20	Nagaland	1	51	51	13
21	Odisha	44	11060	251	63
22	Puducherry	1	221	221	55
23	Punjab	12	1438	120	30
24	Rajasthan	45	6122	136	34
25	Tamil Nadu	14	4440	317	79
26	Telangana	36	8463	235	59
27	Tripura	3	242	81	20
28	Uttarakhand	4	908	227	57
29	Uttar Pradesh	218	84778	389	97
30	West Bengal	3	2948	983	246
<b>TOTAL</b>		<b>757</b>	<b>202175</b>	<b>267</b>	<b>67</b>

## Annexure 3: Total amount released for FTSCs

(in lakh)

Sl. No.	State/UT	2019-20	2020-21	2021-22
1	Andhra Pradesh	180.0	0.0	0.0
2	Assam	285.6	186.9	337.5
3	Bihar	202.5	1526.3	2025.0
4	Chandigarh	18.8	0.0	0.0
5	Chhattisgarh	337.5	337.5	425.9
6	Delhi	360.0	0.0	0.0
7	Goa	22.5	0.0	0.0
8	Gujarat	787.5	787.5	0.0
9	Haryana	360.0	360.0	360.0
10	Himachal	101.3	151.9	0.0
11	Jammu & Kashmir	56.3	0.0	263.5
12	Jharkhand	495.0	495.0	0.0
13	Karnataka	697.5	0.0	663.5
14	Kerala	840.0	0.0	0.0
15	Madhya Pradesh	1507.5	1507.5	2617.5
16	Maharashtra	3105.0	0.0	0.0
17	Manipur	67.5	67.5	33.8
18	Meghalaya	168.8	0.0	0.0
19	Mizoram	101.3	101.3	202.6
20	Nagaland	33.8	33.8	0.0
21	Odisha	540.0	130.0	1620.0
22	Puducherry*	0.0	0.0	11.3
23	Punjab	270.0	0.0	0.0
24	Rajasthan	585.0	1440.0	1974.5
25	Tamil Nadu	315.0	315.0	259.0
26	Telangana	810.0	0.0	0.0
27	Tripura	101.25	101.3	0.0
28	Uttar Pradesh	1380.625	3500.0	2452.5
29	Uttarakhand	270	0.0	209.2
	<b>TOTAL</b>	<b>14000</b>	<b>15970.6</b>	<b>13455.7</b>



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**PARLIAMENT  
QUESTION & ANSWERS**

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GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE

**LOK SABHA**  
UNSTARRED QUESTION NO. 3144  
ANSWERED ON – 09/08/2024

**FAST TRACK SPECIAL COURT FOR POCSO**

**3144. MS. SAYANI GHOSH:**

Will the Minister of **LAW AND JUSTICE** be pleased to state:

- (a) the funds allocated and utilized by the Government under Fast Track Special Courts (FTSCs) Scheme since its inception, year-wise;
- (b) the total number of FTSCs including exclusive POCSO Courts functional across the country, State-wise; and
- (c) the number of cases disposed by FTSCs and exclusive POCSO Courts since its inception?

**ANSWER**

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY  
OF LAW AND JUSTICE; AND MINISTER OF STATE IN THE  
MINISTRY OF PARLIAMENTARY AFFAIRS  
**(SHRI ARJUN RAM MEGHWAL)**

**(a) to (c):** Pursuant to the Criminal Law Amendment Act, 2018, the Central Government has been implementing a Centrally Sponsored Scheme for setting up of Fast Track Special Courts (FTSCs), including exclusive POCSO Courts since October, 2019 for expeditious trial and disposal of pending cases pertaining to Rape and Protection of Children from Sexual Offences (POCSO) Act, in a time-bound manner.

The Scheme was initially implemented for one year, which was extended upto March, 2023. The Scheme has now been extended till 31.03.2026, at an outlay of Rs. 1952.23 cr. with Rs. 1207.24 cr. as Central Share to be incurred from Nirbhaya

Fund. The funds are released on CSS pattern (60:40, 90:10) to cover the salaries of 1 Judicial Officer along with 7 support Staff and a Flexi Grant for meeting the day-to-day expenses. Under the FTSCs Scheme, funds are released to the States/UTs on a reimbursement basis, determined by the number of functional courts in State/UT concerned. Since the inception of the scheme, year-wise funds allocated and released by the Central Government under FTSCs Scheme are as below:

(Rs. in crore)

<b>Financial Year</b>	<b>Budget Allocated</b>	<b>Central share of funds released</b>
2019-20	140.00	140.00
2020-21	160.00	160.00
2021-22	180.00	134.55*
2022-23	200.00	200.00
2023-24	200.00	200.00
2024-25	200.00	82.78 (Till date)
<b>TOTAL</b>	<b>1080.00</b>	<b>917.33</b>
*Less funds were released against Budget Allocated in 2021-22 due to COVID and States taking time to on-board the new PFMS System.		

As per the information received from the High Courts up to May, 2024, 755 FTSCs including 410 exclusive POCSO (e-POCSO) Courts are functional in 30 States/UTs across the country, which have disposed of over 2,53,000 cases. The State-wise details of number of functional Fast Track Special Courts along with the number of cases disposed of as on 31.05.2024 is at **Annexure**.

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**Annexure as referred to in Reply to the Lok Sabha Unstarred Question No. 3144  
for 09<sup>th</sup> August, 2024**

State/UT-wise details of number of functional Fast Track Special Courts along with the  
number of cases disposed as of May, 2024

Sl. No.	State/UT	Functional Courts		Cumulative Disposal since the inception of the Scheme		
		FTSCs including exclusive POCSO	exclusive POCSO	FTSCs	exclusive POCSO	Total
1	Andhra Pradesh	16	16	0	4899	4899
2	Assam	17	17	0	5893	5893
3	Bihar	46	46	0	11798	11798
4	Chandigarh	1	0	265	0	265
5	Chhattisgarh	15	11	924	4044	4968
6	Delhi	16	11	555	1262	1817
7	Goa	1	0	32	34	66
8	Gujarat	35	24	2263	9793	12056
9	Haryana	16	12	1572	4675	6247
10	Himachal Pradesh	6	3	416	1126	1542
11	J&K	4	2	91	101	192
12	Jharkhand	22	16	2279	4537	6816
13	Karnataka	31	17	3740	6657	10397
14	Kerala	55	14	13530	6123	19653
15	Madhya Pradesh	67	57	3894	22456	26350
16	Maharashtra	14	7	7258	11530	18788
17	Manipur	2	0	146	0	146
18	Meghalaya	5	5	0	462	462
19	Mizoram	3	1	148	55	203
20	Nagaland	1	0	61	3	64
21	Odisha	44	23	4992	9521	14513
22	Puducherry	1	1	0	83	83
23	Punjab	12	3	2055	2061	4116
24	Rajasthan	45	30	4502	10138	14640
25	Tamil Nadu	14	14	0	7225	7225
26	Telangana	36	0	5993	2731	8724
27	Tripura	3	1	203	186	389
28	Uttarakhand	4	0	1614	0	1614
29	Uttar Pradesh	218	74	34091	34998	69089
30	West Bengal	5	5	0	106	106
	<b>TOTAL</b>	<b>755</b>	<b>410</b>	<b>90624</b>	<b>162497</b>	<b>253121</b>

GOVERNMENT OF INDIA  
MINISTRY OF WOMEN AND CHILD DEVELOPMENT

**LOK SABHA**  
**UNSTARRED QUESTION NO 1997**  
TO BE ANSWERED ON 02.08.2024

**NIRBHAYA FUND SCHEME**

1997 DR. M K VISHNU PRASAD:  
SHRI KOTA SRINIVASA POOJARY:

Will the Minister of WOMEN AND CHILD DEVELOPMENT be pleased to state:

- (a) the amount of funds allocated, released and utilized under the Nirbhaya fund since 2015-16, scheme-wise;
- (b) the details of the under-utilization of funds, if any, allocated to the Ministry and specifically under the Nirbhaya fund in recent years;
- (c) the steps taken/ proposed to be taken by the Government to prevent and remedy the same;
- (d) the details of the amount released by the Ministries/Departments for the Nirbhaya Fund and its utilization, scheme/project-wise specially for initiative related to Women's safety on highways and roads in the country, State/UT-wise;
- (e) whether any periodic audits are conducted to assess the implementation and effectiveness of the projects funded by Nirbhaya fund in enhancing women's safety; and
- (f) if so, the details thereof?

**ANSWER**

MINISTER OF WOMEN AND CHILD DEVELOPMENT  
(SHRIMATI ANNPURNA DEVI)

(a): Under the Nirbhaya Fund, upto the financial year 2023-24, a total amount of ₹ 7212.85 Crore has been allocated. The total amount released by the Ministries/ Departments and utilized out of the Nirbhaya fund since inception is ₹ 5512.97 Crore which is nearly 76% of the total allocation. The scheme/ project wise details of amount released by the Ministries/ Departments/ Implementing Agencies (IAs) and utilized out of the Nirbhaya fund is at **Annexure**.

(b) to (f): The projects/ schemes under Nirbhaya Fund are demand driven. The projects/ schemes appraised by Empowered Committee (EC) under Framework for Nirbhaya Fund has a staggered implementation schedule. Further, some of the appraised projects are directly implemented by Central Ministries/ Departments/IAs, however, majority of the projects are implemented through State Governments/ Union Territory (UT) Administrations, in which

Central Government releases the funds to States/ UTs as per prescribed fund sharing pattern of respective projects/ schemes and implementation on ground is done by the States/ UTs as per the approved implementation period. Further, there are schemes, which require recurring expenditure for providing services, in respect of which, further funds are released upon receipt of Utilisation Certificates (UCs) and Statement of Expenditure (SoE) from the IA/ Authority as per provisions of General Financial Rules (GFR). Hence, it is possible that more funds have been actually utilised, but Utilisation Certificates (UCs) and Statement of Expenditure (SoE), as required, as per provisions of GFR have not been received from States/ UTs/ IAs. The States/ IAs are regularly followed up to submit UCs and SoEs. Various other factors such as time taken in getting required approvals from competent authorities, procedure to be followed for award of contract, disruptions due to unforeseen reasons such as the one created by Covid 19 etc., also affect implementation of schemes/ projects.

An Empowered Committee (EC) constituted under the Framework for Nirbhaya Fund appraises and recommends the proposals for funding under Nirbhaya Fund and also reviews the status of implementation as also status of expenditure, of approved projects from time to time, in conjunction with the Ministries/ Departments/Implementing Agencies concerned. Further, the Project/ Scheme Implementing Ministries/ Departments/ Agencies also review the progress of implementation at their level.

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**Annexure referred to in reply to part (a) of Lok Sabha Unstarred Question No. 1997 to be answered on 02.08.2024 regarding 'Nirbhaya Fund Scheme'.**

<b>Ministries/ Departments</b>	<b>Project Name</b>	<b>Fund released (in ₹ crore)</b>
Ministry of Home Affairs	Emergency Response Support System (ERSS)	364.03
	Central Victim Compensation Fund (CVCF)	200
	Cyber Crime Prevention against Women & Children (CCPWC) and Sub-project under CCPWC	174.39
	Facility of Social Workers/ Counsellors at the District and Sub- Divisional Police Station Level in Delhi	5.01
	New building with Women Centric Facilities for Special Unit for Women & Children (SPUWAC) and Special Unit for North East Region (SPUNER) at Nanakpura	21.35
	Delhi Police Safety of Women's Scheme	9.96
	Safe City Proposal for 8 Cities i.e. Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Lucknow, Mumbai	1577.76
	Establishment of State of Art DNA Lab. at CFSL, Chandigarh	42.84
	Strengthening DNA analysis, cyber forensic & related facilities in SFSLs in 30 States/ UTs	185.59
	Training of Investigation Officers (IOs)/ Prosecution Officers (POs) in Forensic evidence collection and Procurement of forensic kits for sexual assault cases	48.23

	Setting up and strengthening Anti-Human Trafficking Units in all districts of States & UTs	113.76
	Setting up/ Strengthening Women Help Desks in Police Stations in all States & UTs	159.68
Ministry of Railways	Integrated Emergency Response Management System (IERMS)	313.75
	Provision of Video Surveillance System at Konkan Railway Station	17.64
	Procurement of 2109 Tabs for Security of Women	5.13
Ministry of Electronics and Information Technology	Development & Field Testing of Panic Switch based safety Device for Cars and Buses for aiding Women's Safety	3.49
Department of Justice	Setting up Fast Track Special Courts to dispose of cases pending trial under Rape & POCSO Act	834.55
Ministry of Tourism	Safe Tourism Destination for women in Madhya Pradesh	13.7
Ministry of Road Transport & Highways	Abhayam Project for safety of women and girl child, Government of Andhra Pradesh	58.64
	Women's safety in public transport, UPSRTC, Government of Uttar Pradesh	80.92
	Bengaluru Metropolitan Transport Corporation, Govt. of Karnataka on Training women for heavy passengers vehicles	42.38
	State-wise Vehicle Tracking Platform (VTP)	220.1
	Installation of Vehicles Tracking Devices with SoS button in Buses of Telangana State Road Transport Corporation (TSRTC) with monitoring from Central Command Control Centre	11.53
Ministry of Women and Child Development	One Stop Centre (OSC)	853.78
	Universalisation of Women Helpline (WHL)	93.31
	Mahila Police Volunteers (MPV)	16.32
	Chirali Proposal, Women Empowerment Directorate	4.71
	Smart and safe Cities Free from Violence against Women and Girls' Programme, Government of Madhya Pradesh	1.04
	Safety and Security of Women, Government of Uttarakhand	0.31
	Nirbhaya Shelter Home, Govt. of Nagaland	2.55
	NICSI for Developing Nirbhaya Dashboard	0.24
	Mission Shakti for awareness and capacity building program for safety and empowerment of women and girls in industrial sectors in Uttar Pradesh	8.25
	Installation of Storage boxes in the 16 Women markets in Manipur	1.6
	Installation of CCTV cameras in 16 women markets in Manipur	0.88



	Mission Shakti-2.0 for setting up of Mahila Swavalamban Kendra (MSK) at DIC centres for Entrepreneurship development, Vocational- Digital Training Safety and Empowerment of Women and Girls in Uttar Pradesh	14.06
	7 Projects for construction of Working Women Hostel in Pauri Garhwal, Champavat, Haridwar, Pithoragarh, Rudraprayag, Tehri Garhwal and Uttarkashi districts of Uttarakhand	11.49
	<b>Grand Total</b>	<b>₹ 5512.97</b>

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GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE

**LOK SABHA**  
STARRED QUESTION NO. \*102  
ANSWERED ON – 09/02/2024

**FAST TRACK SPECIAL COURTS**

**\*102. SHRI SUNIL KUMAR SINGH:**  
**SHRI KHAGEN MURMU:**

Will the Minister of **LAW AND JUSTICE** be pleased to state:

- (a) the steps taken by the Government to implement the Fast Track Special Courts scheme;
- (b) the details of the Fast Track Special Courts (FTSCs) and the Protection of Children from Sexual Offences (POCSO) Courts operational in the country;
- (c) the number of cases resolved thereon so far, court-wise and State-wise;
- (d) the key achievements and outcomes of the Scheme;
- (e) the rate of disposal in rape and POCSO Act cases; and
- (f) whether the Government has made any assessment of the functioning of the FTSC scheme, if so, the details thereof?

**ANSWER**

MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF  
LAW AND JUSTICE; MINISTER OF STATE IN THE MINISTRY OF  
PARLIAMENTARY AFFAIRS; AND MINISTER OF STATE IN THE  
MINISTRY OF CULTURE  
**(SHRI ARJUN RAM MEGHWAL)**

**(a) to (f) :** A Statement is laid on the Table of the House.

**STATEMENT REFERRED TO IN REPLY TO PARTS (a) to (f) OF THE LOK SABHA STARRED QUESTION NO. \*102 FOR THE 09<sup>th</sup> FEBRUARY, 2024 REGARDING 'FAST TRACK SPECIAL COURTS'**

**(a) to (c):** Pursuant to the Criminal Law Amendment Act, 2018, the Central Government is implementing a Centrally Sponsored Scheme for setting up of Fast Track Special Courts (FTSCs) including exclusive POCSO (e-POCSO) Courts since October, 2019 for expeditious trial and disposal of pending cases pertaining to Rape and Prevention of Children from Sexual Offences (POCSO) Act in a time-bound manner.

The scheme was initially for one year, which was further extended up to March, 2023. The Union Cabinet has extended the Scheme for another three years, from 01.04.2023 to 31.03.2026, at a total outlay of Rs. 1952.23 cr. including Rs. 1207.24 cr. as Central Share to be incurred from Nirbhaya Fund.

As per data submitted by various High Courts, up to December 2023, 757 FTSCs including 411 exclusive POCSO (e-POCSO) Courts are functional in 30 States/UTs across the country which have disposed of more than 2,14,000 cases. State-wise details of number of functional Fast Track Special Courts along with the number of cases disposed of as on 31.12.2023 is placed at **Annexure-I**.

**(d) :** Setting up Fast Track Special Courts demonstrates the unwavering commitment of the Government towards women security, combating sexual and gender-based violence, reducing the backlog of pending cases related to Rape & POCSO Act, and providing expeditious access to justice for survivors of sexual crimes. With professional and experienced judges and support staff specialized in handling sensitive sexual offense cases, these courts ensure consistent and expert-guided legal proceedings offering victims of sexual offences swift resolutions in mitigating the trauma and distress, and enabling them to move forward. Fast Track Special Courts have notably adopted the approach of setting up Vulnerable

Witness Deposition Centres within the courts to facilitate the victims and to make the courts into Child-friendly Courts for providing crucial support for a compassionate legal system. These courts have disposed of more than 2,14,000 cases as of December 31, 2023.

(e) : As per the information provided by the High Courts on the FTSCs dashboard, a total of 81,471 cases were newly instituted from January, 2023 to December, 2023, while 76,319 cases have been disposed of during the period, resulting in a disposal rate of 93.6%.

The State/UT-wise disposal of Fast Track Special Courts (FTSCs) since the inception of the Scheme is given at **Annexure-II**.

(f) : A third-party evaluation of the Scheme was carried out by Indian Institute of Public Administration (IIPA) in the year 2023 which has inter-alia recommended for continuation of the scheme. The recommendations given by IIPA, are as under:

- IIPA strongly recommended the continuation of this scheme as its primary objective is to handle cases of sexual offences against women and children through a streamlined and expedited judicial process.
- To expedite trials, States and High Courts must strengthen parameters, including appointing Special Judges experienced in POCSO cases, ensuring sensitization training, and appointing female public prosecutors.
- The courtrooms need to be upgraded with modern technology, such as audio and video recording systems and LCD projectors. To be at par with the current evolving technologies, the court could enhance IT systems including electronic case filing and digitalization of court records.
- Forensic Labs to increase and to train manpower to expedite the pending cases in courts and ensure timely submission of DNA Reports. It will not only help the skilled manpower to assist the scientist and reporting officers but moreover will help to give a fair and speedy justice.

- Vulnerable Witness Deposition Centers (VWDCs) should be established in all districts to facilitate a better process of recording victim testimonies, thereby initiating a smoother court proceeding. The States should take initiative to conduct the trial in a way that is child-friendly, behind closed doors without disclosing the child's identity. Further, every FTSC should have a child psychologist to assist the child with rigorous pre-trial and trial procedures

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**Annexures as referred to in Reply to Lok Sabha Starred Question  
No. \*102 for 09.02.2024**

**Annexure-I**

State/UT-wise number of functional FTSCs and cumulative disposal of cases  
as of December, 2023

Sl. No.	State/UT	Functional Courts		Cumulative Disposal since the inception of the Scheme
		FTSCs including e-POCSO	e-POCSO	
1	Andhra Pradesh	16	16	4083
2	Assam	17	17	4979
3	Bihar	46	46	9939
4	Chandigarh	1	0	244
5	Chhattisgarh	15	11	4377
6	Delhi	16	11	1503
7	Goa	1	0	44
8	Gujarat	35	24	10295
9	Haryana	16	12	5342
10	Himachal Pradesh	6	3	1282
11	J&K	4	2	151
12	Jharkhand	22	16	5822
13	Karnataka	31	17	8897
14	Kerala	54	14	16878
15	Madhya Pradesh	67	57	23613
16	Maharashtra	19	10	16907
17	Manipur	2	0	127
18	Meghalaya	5	5	382
19	Mizoram	3	1	169
20	Nagaland	1	0	57
21	Odisha	44	23	11960
22	Puducherry	1	1	44
23	Punjab	12	3	3565
24	Rajasthan	45	30	13003
25	Tamil Nadu	14	14	6228
26	Telangana	36	0	7799
27	Tripura	3	1	349
28	Uttarakhand	4	0	1355
29	Uttar Pradesh	218	74	55021
30	West Bengal	3	3	48
	<b>TOTAL</b>	<b>757</b>	<b>411</b>	<b>214463</b>

State/UT-wise Disposal of cases in FTSCs as of December, 2023

Sl. No.	State/UT	Total cases instituted since inception of the Scheme	Cumulative disposal since inception of the Scheme	Cumulative pendency
1	Andhra Pradesh	11314	4083	7231
2	Assam	10186	4979	5207
3	Bihar	27655	9939	17716
4	Chandigarh	447	244	203
5	Chhattisgarh	6641	4377	2264
6	Delhi	5313	1503	3810
7	Goa	200	44	156
8	Gujarat	16633	10295	6338
9	Haryana	9541	5342	4199
10	Himachal Pradesh	2116	1282	834
11	J&K	604	151	453
12	Jharkhand	10308	5822	4486
13	Karnataka	14311	8897	5414
14	Kerala	24279	16878	7401
15	Madhya Pradesh	33806	23613	10193
16	Maharashtra	21262	16907	4355
17	Manipur	221	127	94
18	Meghalaya	1443	382	1061
19	Mizoram	258	169	89
20	Nagaland	108	57	51
21	Odisha	23020	11960	11060
22	Puducherry	265	44	221
23	Punjab	5003	3565	1438
24	Rajasthan	19125	13003	6122
25	Tamil Nadu	10668	6228	4440
26	Telangana	16262	7799	8463
27	Tripura	591	349	242
28	Uttarakhand	2263	1355	908
29	Uttar Pradesh	139799	55021	84778
30	West Bengal	2996	48	2948
	<b>TOTAL</b>	<b>416638</b>	<b>214463</b>	<b>202175</b>

**GOVERNMENT OF INDIA  
MINISTRY OF LAW & JUSTICE  
DEPARTMENT OF JUSTICE**

**LOK SABHA**

**UNSTARRED QUESTION NO.1499**

**TO BE ANSWERED ON FRIDAY THE 10<sup>th</sup> FEBRUARY, 2023**

**Fast Track Special Courts**

**1499. SHRI MARGANI BHARAT:**

**Will the Minister of Law and Justice be pleased to state:**

- (a) the details of number of Fast Track Special Courts (FTSCs) functioning in the country, State-wise;
- (b) the details of funds allocated and utilised for FTSCs during the last three years, State-wise;
- (c) the achievements of these courts indicating the number of cases disposed and pending during the last three years;
- (d) the number of FTSCs functional in Andhra Pradesh against the proposed target; and
- (e) the steps taken to expedite the establishment of remaining FTSCs in the State?

**ANSWER  
MINISTER OF LAW & JUSTICE  
(SHRI KIREN RIJJU)**

**(a) & (b):** The details of number of Fast Track Special Courts (FTSCs) functioning in the country and funds allocated during the last three years, is given at **Annexure-I**.



**(c):** As per third party evaluation conducted by National Productivity Council, 17.64% of exclusive POCSO cases reported conviction. FTSCs have disposed off more than 1, 37,000 cases up to December, 2022. The details of number of pending and disposed off cases during the last three years are given at **Annexure -II**.

**(d):** As per information provided by the High Court of Andhra Pradesh, 14 FTSCs are functional in the State as on 31<sup>st</sup> December 2022 against 18 FTSCs earmarked to the State.

**(e):** Regular review meetings have been conducted by the Department of Justice to expedite the robust implementation of the scheme including establishment of remaining FTSCs. The last review meeting was conducted with the State of Andhra Pradesh on 13.01.2023. In addition, Minister of Law and Justice has addressed letters to the Chief Ministers of States/UTs and Chief Justice of High Courts for operationalization of the remaining FTSCs.

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**Annexure- I**

**Details of number of FTSCs functioning in the country and funds  
allocated during last three years**

**(Rs. in Cr.)**

<b>S.No.</b>	<b>State/UT</b>	<b>No. of Functional FTSCs as on 31.12.2022</b>	<b>Amount released(FY 2019-20)</b>	<b>Amount released (FY 2020-21)</b>	<b>Amount released (FY 2021-22)</b>	<b>Amount released (up to 31<sup>st</sup> December, 2022)</b>
<b>1</b>	<b>Andhra Pr.</b>	14	1.8	0	0	0
<b>2</b>	<b>Assam</b>	17	2.85625	1.86875	3.375	6.7325
<b>3</b>	<b>Bihar</b>	48	2.025	15.26255	20.25	11.895
<b>4</b>	<b>Chandigarh*</b>	01	0.1875	0	0	0
<b>5</b>	<b>Chhattisgarh</b>	15	3.375	3.375	4.259	3.93
<b>6</b>	<b>Delhi</b>	16	3.6	0	0	4.225
<b>7</b>	<b>Goa</b>	01	0.225	0	0	0.26
<b>8</b>	<b>Gujarat</b>	35	7.875	7.875	0	9.26
<b>9</b>	<b>Haryana</b>	16	3.6	3.6	3.6	4.225
<b>10</b>	<b>Himachal P</b>	06	1.0125	1.51875	0	2.375
<b>11</b>	<b>J&amp;K</b>	04	0.5625	0	2.635	1.58
<b>12</b>	<b>Jharkhand</b>	22	4.95	4.95	0	5.825
<b>13</b>	<b>Karnataka</b>	30	6.975	0	6.635	7.395
<b>14</b>	<b>Kerala</b>	52	8.4	0	0	7.4
<b>15</b>	<b>Madhya Pr.</b>	67	15.075	15.0750	26.175	17.72
<b>16</b>	<b>Maharashtra</b>	39	31.05	0	0	0

<b>17</b>	<b>Manipur</b>	02	0.675	0.675	0.3375	0.785
<b>18</b>	<b>Meghalaya</b>	05	1.6875	0	0	1.977
<b>19</b>	<b>Mizoram</b>	03	1.0125	1.0125	2.02625	1.18
<b>20</b>	<b>Nagaland</b>	01	0.3375	0.3375	0	0.38
<b>21</b>	<b>Odisha</b>	44	5.4	1.3	16.2	11.64
<b>22</b>	<b>Puducherry**</b>	0	0	0	0.1125	0
<b>23</b>	<b>Punjab</b>	12	2.7	0	0	3.1625
<b>24</b>	<b>Rajasthan</b>	45	5.85	14.4	19.745	11.895
<b>25</b>	<b>Tamil Nadu</b>	14	3.15	3.15	2.59	3.7
<b>26</b>	<b>Telangana</b>	34	8.1	0	0	8.9875
<b>27</b>	<b>Tripura</b>	03	1.0125	1.0125	0	1.1725
<b>28</b>	<b>Uttar Pr.</b>	218	13.80625	84.29375	24.525	57.68
<b>29</b>	<b>Uttarakhand</b>	04	2.7	0	2.092	1.53
	<b>NPC (for 3<sup>rd</sup> Party Evaluation)</b>	-	-	0.293702	-	-
	<b>TOTAL</b>	<b>768</b>	<b>140</b>	<b>160</b>	<b>134.557</b>	<b>186.93</b>

\*UT has indicated no requirement of fund under FTSC

\*\*UT became part of the scheme in early 2022

**Annexure-II**

**Status of FTSC - Number of cases disposed and pending during the last three years**

S. No.	State/UT	2020			2021			2022		
		No of functional FTSCs (31.12.2020)	Cases pending (31.12.2020)	Cases Disposed during the Year	No of functional FTSCs (31.12.2021)	Cases pending (31.12.2021)	Cases Disposed during the Year	No of functional FTSCs (31.12.2022)	Cases pending (31.12.2022)	Cases Disposed during the Year
1	Andhra Pr	8	3980	127	10	5483	296	14	7328	1511
2	Assam	7	1211	36	15	3023	818	17	3881	1861
3	Bihar	45	12132	492	45	14002	2127	45	15587	3610
4	Chandigarh	1	176	2	1	235	19	48	220	97
5	Chhattisgarh	15	2721	162	15	2674	1694	15	2745	1393
6	Delhi	0	0	0	16	4410	195	16	4426	552
7	Gujarat	35	5236	888	35	5632	2485	35	6619	3535
8	Goa	0	0	0	0	0	0	01	51	26
9	Haryana	16	3334	130	16	4373	1373	16	4103	1875
10	Himachal	3	462	40	6	961	148	6	923	378
11	J&K	0	0	0	4	390	49	4	444	66
12	Jharkhand	20	3401	463	22	5380	1330	22	4384	2303
13	Karnataka	14	2729	268	18	3962	1760	30	5532	3424

14	Kerala	23	4629	257	28	7653	3478	52	7213	6356
15	Madhya Pr	66	11196	3422	67	14139	7944	67	12435	7539
16	Maharashtra	25	5624	1270	34	7445	4489	39	8539	5607
17	Manipur	0	0	0	2	171	19	2	130	60
18	Meghalaya	0	0	0	5	946	71	5	995	156
19	Mizoram	0	0	0	3	40	47	3	36	62
20	Nagaland	0	0	0	1	96	39	1	53	9
21	Odisha	15	6119	240	36	10613	2563	44	11754	4244
22	Punjab	3	440	537	12	2009	964	12	1842	1099
23	Rajasthan	45	7938	1421	45	7581	4775	45	6801	4015
24	Tamil Nadu	14	4230	506	14	4684	1703	14	5127	2664
25	Telangana	19	2864	481	25	5031	2979	34	7544	3498
26	Tripura	3	285	17	3	323	94	3	318	92
27	Uttar Pradesh	218	79468	26318	218	72924	31562	218	78238	8561
28	Uttarakhand	4	668	80	4	763	606	4	940	366
	<b>Total</b>	<b>599</b>	<b>158843</b>	<b>37148</b>	<b>700</b>	<b>184943</b>	<b>73627</b>	<b>768</b>	<b>198208</b>	<b>64959</b>

**GOVERNMENT OF INDIA  
MINISTRY OF LAW AND JUSTICE  
DEPARTMENT OF JUSTICE**

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**LOK SABHA  
UNSTARRED QUESTION NO. 1717**

TO BE ANSWERED ON FRIDAY, THE 11<sup>th</sup> FEBRUARY, 2022

**Fast Track Special Courts for Rape and POCSO cases**

**1717. SHRI MARGANI BHARAT:**

**DR. T.R. PAARIVENDHAR:**

Will the Minister of Law and Justice be pleased to state:

- (a) whether as per Criminal Law (Amendment) Bill, 1025 Fast Track Special Courts (FTSC) for expeditious trial and disposal of cases related to rape and POCSO were to be set up, if so, the details thereof along with the reasons for failure to set up even fifty percent of recommended FTSCs indicating the number of FTSCs set up in various States;
- (b) whether these FTSCs are functional with full judicial and non-judicial strength, if so, the details thereof;
- (c) whether the Union Government has directed ten States to set up FTSC to hear exclusively the sex abuse cases, if so, the details thereof along with the names of such States; and
- (d) the details of response received from these States in this regard along with the status of setting up of such courts?

**ANSWER**

**MINISTER OF LAW & JUSTICE  
(SHRI KIREN RIJJU)**

(a) to (d): In pursuance to the Criminal Law Amendment Act, 2018, the Department of Justice is implementing a Centrally Sponsored Scheme for setting up of 1023 Fast Track Special Courts (FTSCs) including 389 exclusive POCSO (e-POCSO) Courts for expeditious trial and disposal of cases related to rape and POCSO Act. The Scheme was initially started for 1 year in October 2019 in 31 States/UTs across the country. Government has further approved

continuation of the Scheme up to March 2023. 28 States/UTs have joined the Scheme so far. West Bengal, Arunachal Pradesh and A&N Island are yet to join. As per information made available by the High Courts, 700 FTSCs including 383 exclusive POCSO Courts are operational which disposed of more than 73,600 pending cases (December, 2021). The details of earmarked and functional FTSCs is given at **Annexure**.

As per guidelines issued for the Scheme of FTSCs, one Presiding Officer and seven support staff for each functional FTSC are to be deputed by the respective State/UT and High Courts for trial of exclusively rape and POCSO Act cases. However, data on vacancies of staff strength in FTSCs is not maintained centrally. As per data furnished by the High Courts, in 19 States/UTs, the earmarked FTSCs are fully functional, in 08 States/UTs FTSCs are partially functional, in 1 State (Goa) the earmarked FTSC is yet to be operationalized and 3 States/UT have still not joined the Scheme.

The issue of setting up of FTSCs and their early operationalization has been taken up with concerned States/UTs at various level from time to time. Minister of Law & Justice has addressed letters to Chief Ministers of States and Chief Justices of High Courts in this regard. In addition, regular review meetings with officials of the States/UTs and High Court functionaries are being held from time to time for operationalization of remaining FTSCs so as to further reduce the burden on judiciary.

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**Annexure as referred to in Reply to the Lok Sabha Unstarred Q.NO- 1717 for  
11<sup>th</sup> February 2022**

**Status of Earmarked and Functional FTSCs (as on 31.12.2021)**

<b>S.No.</b>	<b>State/UT</b>	<b>Earmarked FTSCs</b>		<b>Functional FTSCs</b>	
		<b>FTSCs including ePOCSO</b>	<b>ePOCSO (Out of Col- 3)</b>	<b>FTSCs including ePOCSO</b>	<b>ePOCSO (Out of Col-5)</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
1.	Andhra Pradesh	18	8	10	10
2.	Assam	27	15	15	15
3.	Bihar	54	30	45	45
4.	Chandigarh	1	0	1	0
5.	Chhattisgarh	15	11	15	11
6.	Delhi	16	11	16	11
7.	Goa	2	0	0	0
8.	Gujrat	35	24	35	24
9.	Haryana	16	12	16	12
10.	Himachal Pradesh	6	3	6	3
11.	J&K	4	0	4	2
12.	Jharkhand	22	8	22	8
13.	Karnataka	31	17	18	16
14.	Kerala	56	14	28	0
15.	Madhya Pradesh	67	26	67	56
16.	Maharashtra	138	30	34	22
17.	Manipur	2	0	2	0
18.	Meghalaya	5	5	5	5
19.	Mizoram	3	1	3	1
20.	Nagaland	1	0	1	1
21.	Odisha	45	22	36	15
22.	Punjab	12	2	12	3
23.	Rajasthan	45	26	45	30
24.	Tamil Nadu	14	14	14	14
25.	Telangana	36	10	25	4
26.	Tripura	3	1	3	1
27.	Uttar Pradesh	218	74	218	74
28.	Uttarakhand	4	4	4	0
<b>Consent Not Given</b>					
29.	Arunachal Pradesh	3	0	0	0
30.	A&N	1	1	0	0
31.	WB	123	20	0	0
	<b>TOTAL</b>	<b>1023</b>	<b>389</b>	<b>700</b>	<b>383</b>



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# **COURT ORDERS**

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ITEM NO.1

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

SUO MOTO WRIT PETITION (CRIMINAL) NO. 1/2019

IN RE: ALARMING RISE IN THE NUMBER OF  
REPORTED CHILD RAPE INCIDENTS

Date : 25-07-2019 This matter was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

By Courts Motion

Mr. V. Giri, Sr. Adv./A.C.  
Ms. Svadha Shankar, Adv.  
Mr. Amith Krishna, Adv.  
Ms. S. Bhagat, Adv.  
Mr. Muthuchran Sundaresh, Adv.

Mr. Surinder S. Rathi, Registrar, SC

For Petitioner(s)

For Respondent(s)

Mr. Nishant R. Katneshwarkar, Adv. (AOR)  
Mr. Anoop Kandari, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

We have heard Mr. V. Giri, learned *Amicus Curiae* and Mr. Surinder S. Rathi, learned Registrar of this Court, who has been entrusted with the work of collating and collecting data in association with the office of the learned *Amicus Curiae*. We have also heard Mr. Tushar Mehta, learned Solicitor General. Reports by the learned *Amicus Curiae*, as well as, Mr. Rathi, learned Registrar have been duly perused. Both the reports contain several suggestions in respect

of the core of the issue, namely, to ensure timely completion of investigations and consequential trials in the offences under Protection of Children from Sexual Offences Act (POCSO Act). While, both the learned *Amicus Curiae* and Mr. Rathi, in their reports, have suggested that further time should be granted for collection of data in terms of the earlier order of this Court, we are inclined to take a different view of the matter at this stage. Instead of adjourning the case for receipt of further/additional data, we are inclined to proceed to issue certain directions hereinafter contained.

Having considered the matter, we have deemed it proper to issue the following directions, which will be implemented by the Union of India and the State Governments forthwith:-

(i) In each district of the country, if there are more than 100 cases under the POCSO Act, an exclusive/designated special Court will be set up, which will try no other offence except those under the POCSO Act.

(ii) Such Courts will be set up under a Central scheme and will be funded by the Central Government, which fund will not only take care of the appointment of the Presiding Officer, but also the appointments of support persons, Special Public Prosecutors, Court staff and infrastructure including creation of child-friendly environment and vulnerable witness Court rooms, etc.

(iii) While drawing up the panel(s) of support persons in each district which should not exceed a reasonable number keeping in mind the total number of cases to be tried by the special Court

to be set up in each district, care should be taken to appoint persons who are dedicated to the cause and apart from academic qualifications are oriented towards child rights; are sensitive to the needs of a child and are otherwise child friendly. The same standards would also apply in the matter of appointment of Special Public Prosecutors.

(iv) The following suggestions of the learned *Amicus Curiae* shall also be implemented by the Ministry of Women and Child Development through such agency as may be considered appropriate:-

“(e) A short clip intended to spread an awareness of the subject in general, namely, prevention of child abuse and prosecution of crimes against children, should necessarily be screened in every movie hall and could also be transmitted by various television channels at regular intervals. A child helpline number should also be displayed not only in such clip but also at various other prominent places, in schools and other public places.

From the reports of the learned *Amicus Curiae*, it appears to us that one of the major causes of delay in winding up the investigations and in cases where charge sheets have been filed, in winding up the trial, is delay in receipt of the reports from the Forensic Science Laboratory. The learned *Amicus Curiae*'s suggestion is that there should be designated Forensic Science Laboratories in every district of the country for the purposes of the POCSO Act. We are of the view that the said suggestion could await orders of the Court at a later stage.

For the present, we direct the Directors of the State Forensic Science Laboratories and the concerned authority in the State Government to ensure that the

existing and available Forensic Science Laboratories in each State will function in an effective manner insofar as analysis etc. of the samples collected under the POCSO Act are concerned and reports of such analysis be sent promptly and without any delay. The Chief Secretaries of all the States and Union Territories are directed to ensure that the above direction of the Court is complied with forthwith.

We would expect our above stated directions to be implemented and exclusively designated Courts to try offences under the POCSO Act, in terms of the above directions, to start functioning within 60 days from the date of the present order.

List the matter again on 26.9.2019.

Mr. Tushar Mehta, learned Solicitor General is requested to be present and he is also requested to inform the Court the progress made in respect of the implementation of the present directions at the end of four weeks from today.

(Deepak Guglani)  
Court Master

(Anand Prakash)  
Court Master

ITEM NO.36

COURT NO.16

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Suo Motu Writ Petition (Cr1.) No(s).1/2019

I N R E : A L A R M I N G R I S E I N T H E N U M B E R O F  
R E P O R T E D C H I L D R A P E I N C I D E N T S

WITH

W.P.(C)No.819/2019 (PIL-W)  
(With appln. for intervention and exemption from filing O.T.)

Date : 16-12-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DEEPAK GUPTA  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

By Courts Motion

Mr. V. Giri, Sr. Adv. (A.C.)  
Ms. Sudha Shankar, Adv.  
Ms. Uttara Babbar, AOR  
Ms. Bhavana Duhoon, Adv.  
Mr. Manan Bansal, Adv.

Mr. Krishna Dev Jagarlamudi, Adv.

Mr. Surinder S. Rathi, Registrar (E-Committee)  
Mr. Rakesh Kumar Singh, Judicial Officer

For Petitioner(s) Mr. Manoj V. George, Adv.  
Ms. Shilpa Liza George, Adv.  
Mr. Aakarsh Kamra, AOR  
Mr. Renjit V. Philip, Adv.

For Respondent(s) UOI	Mr. Tushar Mehta, SG Mr. Atmaram N.S. Nadkarni, ASG Mr. S.S. Rebello, Adv. Ms. Neela Kedar Gokhale, Adv. Mr. Rajat Nair, Adv. Ms. Swati Ghildiyal, Adv. Mr. R.R. Rajesh, Adv. Ms. Arzu Paul, Adv. Mr. Neeleshwar Pavani, Adv. Ms. Shivikka Aggarwal, Adv. Ms. Riya Soni, Adv. Mr. Manish, Adv. Ms. Shradha Agrawal, Adv. Mr. Ilam Paridi, Adv. Mr. B.V. Balaram Das, AOR Mr. Raj Bahadur Yadav, AOR Mr. G.S. makker, AOR
State of AP	Mr. G.N. Reddy, AOR Mr. T. Vijaya Bhaskar Reddy, Adv. Ms. Sujatha Bagadhi, Adv.
State of Arunachal Pradesh	Mr. Abhimanyu Tewari, AOR Ms. Eliza Bar, Adv.
State of Assam	Ms. Diksha Rai, AOR Ms. Palak Mahajan, Adv.
State of Bihar	Mr. Abhinav Mukerji, AOR Ms. Bihu Sharma, Adv. Mr. Samarth Khanna, Adv. Ms. Pratishtha Vij, Adv.
High Court of Patna	Mr. P.H. Parekh, Sr. Adv. Mr. Kshtrashal Raj, Adv. Ms. Pratyusha Priyadarshini, Adv. Ms. Nitika Pandey, Adv. Mr. Nikhil Ramdev, Adv.
Calcutta High Court	Mr. Kunal Chatterji, AOR Ms. Maitrayee Banerjee, Adv. Mr. Supratik Sarkar, Adv.
State of Chhattisgarh	Dr. Rajesh Pandey, Adv. Ms. Shweta Mulchandani, Adv. Ms. Tanuja Manjari Patra, Adv. Ms. Aswathi M.K., AOR Mr. Sumeer Sodhi, AOR Ms. Aarzo Aneja, Adv. Mr. Ashish Tiwari, Adv. Ms. Simran Agarwal, Adv.



High Court of Chhatisgarh	Mr. Apoorv Kurup, AOR Ms. Upama Bhattacharjee, Adv.
Delhi High Court	Mr. Annam D.N. Rao, AOR Mr. A. Venkatesh, Adv. Mr. Rahul Mishra, Adv. Mr. Avni Sharma, Adv. Ms. Ananya Khandelwal, Adv. Ms. Sangeetha M.R., Adv.
State of Haryana	Dr. Monika Gusain, AOR
State of HP	Mr. Vikas Mahajan, Adv. (AAG) Mr. Vinod Sharma, AOR Mr. Joydip Roy, Adv. Mr. Anil Kumar, Adv. Mr. Vishal Mahajan, Adv. Mr. Arun Singh, Adv.
State of Jharkhand	Mr. Gopal Prasad, AOR Mr. Jayesh Gaurav, Adv. Mr. Shalya Agarwal, Adv.
Jharkhand High Court	Mr. Himanshu Shekhar, AOR Mr. Parth Shekhar, Adv.
State of Goa	Mr. Arun R. Pedneker, Adv. Mr. Hitesh Kr. Sharma, Adv. Ms. Mukti Chowdhary, AOR
State of Guj.	Ms. Deepanwita Priyanka, AOR  Mr. D. Ramakrishna Reddy, Adv. Ms. Poonam Kaushik, Adv. Ms. Gagan Deep Kaur, Adv. Ms. D. Bharathi Reddy, AOR
High Court of Guj.	Mr. Nikhil Goel, AOR Ms. Naveen Goel, Adv. Mr. Dushyant Sarna, Adv.
State of Kar.	Mr. V.N. Raghupathy, AOR Mr. Manendra Pal Gupta, Adv.
State of Kerala	Mr. G. Prakash, AOR Mr. Jishnu M.L., Adv. Ms. Priyanka Prakash, Adv. Ms. Beena Prakash, Adv.
High Court of Kerala	Mr. P.N. Ravindran, Sr. Adv. Mr. T.G. Narayanan Nair, AOR

High Court of MP	Mr. Arjun Garg, AOR Mr. Devansh Srivastav, Adv.
State of Mah.	Mr. Sachin Patil, AOR
High Court of Bombay	Mr. Aniruddha P. Mayee, AOR Mr. A. Rajarajan, Adv. Mr. Sanjeev Kumar Choudhary, Adv.
State of MP	Mr. Rahul Kaushik, AOR
State of Mizoram	Ms. Astha Sharma, AOR Ms. Bansuri Swaraj, Adv. Ms. Arshiya Ghose, Adv. Mr. Divyansh Tiwari, Adv. Ms. A. Upadhyay, Adv.
State of Meghalaya	Mr. Ranjan Mukherjee, AOR Mr. Upendra Mishra, Adv. Mr. K.R. Kharlyngdoh, Adv. Mr. T.K. Nayak, Adv. Mr. Deniel Stone Lyngdoh, Adv.
High Court of Meghalaya	Mr. Sanjai Kumar Pathak, AOR Ms. Shashi Pathak, Adv. Mr. Arvind Kumar Tripathi, Adv.
State of Nagaland	Ms. K. Enatoli Sema, AOR Mr. Amit Kumar Singh, Adv. Mr. Gaurav Prakash, Adv.
State of Odisha	Mr. Som Raj Choudhury, AOR Mr. Prashant Kumar, Adv. Mr. Ravi Prakash Mehrotra, AOR Mr. Ankit Agarwal, Adv. Mr. Amartya Singh, Adv.
High Court of Orissa	Mr. Sibho Sankar Mishra, AOR Mr. Umakant Mishra, Adv. Mr. Chanakya Gupta, Adv.
State of Pb.	Ms. Jaspreet Gogia, AOR Ms. Sukhmani Bajwa, Adv. Ms. Mandakini Singh, Adv. Ms. Ashima Mandla, Adv.
High Court of Raj.	Mr. Purushaindra Kaurav, Sr. Adv. Mr. K. Parameshwar, AOR Mr. M.V. Mukunda, Adv. Mr. Shailja Nanda Mishra, Adv. Mr. Arpit Parkash, Adv.

	Mr. Sandeep Kumar Jha, AOR Mr. Abhinav S. Raghuvanshi, Adv.
State of Sikkim	Ms. Aruna Mathur, Adv. Mr. Avneesh Arputham, Adv. Ms. Anuradha Arputham, Adv. Ms. Geetanjali, Adv. Mr. Vivek Kohli, Adv. Ms. Yeshirinchhen, Adv. for M/s. Arputham Aruna & Co., AOR
State of TN	Mr. Jayanth Muth Raj, Sr. Adv. Mr. M. Yogesh Kanna, AOR
State of Tripura	Mr. Shuvodeep Roy, AOR Mr. Joydip Roy, Adv. Mr. Kabir Shankar Bose, Adv. Mr. Sataroop Das, Adv.
State of UP	Mr. Ranjit Kumar, Sr. Adv. Mr. Sarvesh Singh Baghel, Adv. Ms. Garima Prashad, AOR Ms. Harshita Raghuvanshi, Adv. Mr. Srinivas Vishven, Adv.
High Court of Allahabad	Mr. Sunny Choudhary, AOR
State of Uttarakhand	Mr. Vinay Arora, Adv. (DAG) Mr. Jatinder Kumar Bhatia, AOR Mr. Ashutosh Kumar Sharma, Adv.
State of WB	Mr. Suhaan Mukerji, Adv. Ms. Astha Sharma, Adv. Mr. Amit Verma, Adv. Mr. Abhishek Manchanda, Adv. Mr. Pastut Dalvi, Adv. for M/s. PLR Chambers & Co., AOR
UT of Chandigarh	Mr. Ankit Goel, AOR
Govt. of Puducherry	Mr. V.G. Pragasam, AOR Mr. S. Prabhu Ramasubramanian, Adv.
UT of J&K	Mr. M. Shoeb Alam, AOR Mr. Mojahid Karim Khan, Adv. Mr. Chanakya Gupta, Adv.
Andaman & Nicobar Admn.	Ms. G. Indira, AOR  Mr. Avijit Mani Tripathi, Adv.

Mr. Shaurya Sahay, Adv.  
 Mr. T.K. Nayak, Adv.  
 Mr. P.S. Negi, Adv.  
 Ms. Rekha Bakshi, Adv.  
 Ms. Shruti Ram Kochar, Adv.

Mr. S. Udaya Kumar Sagar, AOR  
 Ms. Swati Bhardwaj, Adv.

Mr. Subhasish Mohanty, AOR  
 Mr. Nishant Ramakantrao Katneshwarkar, AOR  
 Mr. Ashok Mathur, AOR  
 Mr. Gopal Singh, AOR  
 Mr. R.P. Gupta, AOR  
 Ms. Sneha Kalita, AOR  
 Mr. Prem Sunder Jha, AOR  
 Mr. Leishangthem Roshmani Kh., AOR  
 Mr. Milind Kumar, AOR  
 Mr. R. Nedumaran, AOR  
 Ms. Radhika Gautam, AOR  
 Mr. Mahfooz Ahsan Nazki, AOR  
 Mr. Vinay Arora, AOR  
 Mr. Naresh K. Sharma, AOR  
 Mr. P.I. Jose, AOR

Intervenor Mr. Piyush Dwivedi, AOR

In-person

Impleading party Mr. Sanjeev Kumar Jain, Adv.  
 Mr. Hitesh Kumar Sharma, Adv.  
 Mr. S.K. Rajora, Adv.  
 Mr. Akhileshwar Jha, Adv.  
 Mr. Anikanissar Sayyed, AOR

Mr. Raghvendra Kumar, Adv.  
 Mr. Anand Kr. Dubey, Adv.  
 Mr. Narendra Kumar, AOR

UPON hearing the counsel the Court made the following  
 O R D E R

There are three issues being dealt with in this petition but today this Court shall deal with only with issue of setting up of exclusive POCSO (Protection of Children from Sexual Offences) Courts in this Country. On 15.7.2019, this Court had noticed that there are large number of POCSO cases pending throughout the country and we had requested that data be collected with regard to the

number and pendency of such cases. Thereafter, Shri Surinder S. Rathi, Registrar (E-Committee), Supreme Court of India, had collected information and submitted the same to this Court on 25.7.2019. This Court passed a detailed order on 25.7.2019, relevant portion of which reads as follows:

"(i) In each district of the country, if there are more than 100 cases under the POCSO Act, an exclusive/designated special Court will be set up, which will try no other offence except those under the POCSO Act.

(ii) Such Courts will be set up under a Central scheme and will be funded by the Central Government, which fund will not only take care of the appointment of the Presiding Officer, but also the appointments of support persons, Special Public Prosecutors, Court staff and infrastructure including creation of child-friendly environment and vulnerable witness Court rooms, etc.

(iii) While drawing up the panel(s) of support persons in each district which should not exceed a reasonable number keeping in mind the total number of cases to be tried by the special Court to be set up in each district, care should be taken to appoint persons who are dedicated to the cause and apart from academic qualifications are oriented towards child rights; are sensitive to the needs of a child and are otherwise child friendly. The same standards would also apply in the matter of appointment of Special Public Prosecutors."

This Court had directed that in any District where there are more than 100 cases, an exclusive Court should be set up only to deal with POCSO cases and will not try any other offence except those under the POCSO Act. We had directed that such Court should be set up under the central scheme and would be fully funded by the Central Government.

The reason for ordering of setting up exclusive POCSO Courts is that these Courts are to deal with children who

are sexually abused. These children who have been abused need to be dealt with great sensitivity and empathy. They cannot be dealt with like or along with other litigants and victims in Courts. Therefore, the need to set up exclusive Courts dealing with crimes relating to the POCSO Act

Thereafter on 1.10.2019, the States and Registrar Generals of all the High Courts were directed to file affidavits on or before 7.11.2019, in a chart setting out the following information

- "1. Number of Districts in the State
2. Number of Districts in which the POCSO cases are more than 100
3. Number of Districts where POCSO cases are more than 200 or multiples of 200 i.e. 400, 600, 800 etc.
4. Number of exclusive POCSO Courts already functioning, if any.
5. Number of POCSO Courts actually notified.
6. Number of Special Public Prosecutors, if any, exclusively assigned for POCSO Courts."

The States and Registrar Generals of almost all the High Courts submitted the requisite information and thereupon, Shri Rathi prepared a comprehensive report which has been taken into consideration by this Court on 13.11.2019. On that date we had noted with concern that in 20% of the cases even investigation has not been completed within one year. We had also noticed that about 2/3<sup>rd</sup> cases were pending trial for more than one year. We had, therefore, requested the State Governments and the Union of India to do all that was required to ensure that all stages of investigation and trial are completed well within the period prescribed under the POCSO Act. Fresh affidavits have been filed only by 18 States and Union Territories.

We shall now deal with the issue of setting up exclusive POCSO Courts in each State. We make it clear

that, in this order, reference to "district(s)" would mean "judicial district(s)".

The parameters to be followed while setting up exclusive POCSO Courts will be : (i) In districts where there are more than 100 POCSO cases pending, at least one exclusive POCSO Court shall be set up; (ii) In districts having more than 300 POCSO cases pending, at least two exclusive POCSO Courts shall be set up.

We shall be laying down separate criterion for the States of the Uttar Pradesh and West Bengal, in the latter part of the order in view of the extremely high pendency of POCSO cases in these two States.

#### Andhra Pradesh

Unfortunately Andhra Pradesh has not filed an affidavit pursuant to our order dated 13.11.2019. However, from the report of the Amicus Curiae as well as the report submitted by Shri Rathi, out of the 13 districts in the State of Andhra Pradesh, there are 8 districts where there are more than 100 POCSO cases and it has been stated that in all these 8 districts, exclusive POCSO Courts are functioning. In fact, it appears that in all these 8 districts there are more than 200 cases. Therefore, keeping in view the parameters laid down by this Court, we direct that in all the districts where there are more than 300 cases, another exclusive POCSO Court will be set up.

We direct the State of Andhra Pradesh to provide necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and to ensure that Courts start functioning at the earliest and not later than 1.3.2020.

As per the status report filed by the Union of India, it has offered to fund 8 exclusive POCSO Courts, however, the State has not given its concurrence as yet.

We direct the State of Andhra Pradesh to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release of funds.

List on 6.3.2020.

#### Arunachal Pradesh

There are very few POCSO cases in the State of Arunachal Pradesh and no specific directions are required at this stage.

#### Assam

There are 27 districts in the State of Assam and out of these 27 districts, there are 12 districts which have more than 100 POCSO cases and 3 districts have more than 200 POCSO cases. In the State of Assam it appears that the Courts of District and Sessions Judges have been declared to be POCSO Courts. There are no exclusive POCSO Courts. In the compliance report filed by the Union of India today, it has been mentioned that the State of Assam did not even respond to the queries of the Central Government. We have been passing orders for the last five months to ensure that the children suffer from sexual abuse, do not suffer even more by having the trial delayed. The State of Assam has neither filed affidavit nor responded to the queries of the Central Government. Learned counsel appearing for the State of Assam submits that due to the law and order situation prevailing in the State of Assam, she has been unable to get the information. As a special case, the State of Assam is given time upto 6.1.2020 to file report. While submitting the report, the authorities concerned will ensure that at least 1 exclusive POCSO Court as ordered by this Court is set up and in those districts where there are



more than 100 POCSO cases pending; and at least two exclusive POCSO Courts are set up in districts where more than 300 POCSO cases are pending.

The matter shall be taken up on 8.1.2020.

Bihar :

There are 38 districts in the State of Bihar. In the State of Bihar, there are more than 100 POCSO cases in 17 districts and more than 200 POCSO cases in another 17 districts.

We direct the State of Bihar to provide the necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and the Courts as per the parameters set out in this order will start functioning at the earliest, and not later than 1.3.2020.

As per the status report filed by the Union of India, it has offered to fund 30 exclusive POCSO Courts in the State of Bihar. The Union of India has already made its intention clear that funds will be made available for these Courts. According to the status report no communication from the State of Bihar has been received by the Union of India for release of funds in terms of the orders passed by this Court. We direct the State of Bihar to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

List on 6.3.2020.

Delhi :

As per the status report filed by the Union of India, it has offered to fund 8 exclusive POCSO Courts and the funds for the same have also been released.

No orders are required at this stage. Fresh status report be filed on or before 1.3.2020.

List on 6.3.2020.

Chhattisgarh :

In the State of Chhattisgarh, which has 23 civil districts. 11 districts have more than 100 POCSO cases and 3 have more than 200 cases. In the affidavit filed, it is stated that 11 POCSO Courts have been notified and 4 have been earmarked for trial of both rape and POCSO cases. We cannot permit the exclusive POCSO Courts to take up other matters. Therefore, we direct the State of Chhattisgarh to ensure that in all the districts which have more than 100 cases, at least one exclusive POCSO Court is set up in those districts; and in districts which have more than 300 POCSO cases, at least 2 exclusive POCSO Courts along with support staff are set up.

As per the status report filed by the Union of India, it has offered to fund 11 exclusive POCSO Courts and the funds for the same have also been released.

We direct the State of Chhattisgarh to provide the necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and the Courts as per the parameters set out in this order will start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

Goa :

No orders are required at this stage.

Gujarat :

In Gujarat there are 32 districts, 13 having more than 100 POCSO cases and 10 having more than 200 POCSO cases. There are 24 exclusive POCSO Courts and 11 Courts try rape and POCSO cases. We direct the State of Gujarat to ensure that in all the districts which have more than

100 POCSO cases, at least one exclusive POCSO Court is set up; and in districts which have more than 300 POCSO cases, at least 2 exclusive POCSO Courts along with support staff are set up.

As per the status report filed by the Union of India, it has offered to fund 24 exclusive POCSO Courts and the funds for the same have also been released.

We direct the State of Gujarat to provide the necessary infrastructure in consultation with the Chief Justice of the High Court on or before 31.1.2020 and the Courts as per the parameters set out in this order will start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

Haryana :

The State of Haryana has not even cared to respond to our order dated 13.11.2019. There are 22 judicial districts, out of which 12 have more than 100 cases and 2 have more than 200 cases. What the State of Haryana has done is to nominate all Courts of Sessions Judges and Additional Sessions Judges as POCSO Courts. This is totally against the spirit of our earlier order referred to above. We had directed that exclusive POCSO Courts with exclusive Public Prosecutors should be set up and the State of Haryana seems to be sleeping over the matter. In the status report filed by the Union of India, 12 exclusive POCSO Courts are to be set up by the State and funds have been released by the Department of Justice.

We, therefore, direct the State of Haryana to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

According to the status report filed by the Union of India, the State has to set up 12 exclusive POCSO Courts but have received no communication from the Government for release of funds in terms of the orders passed by this Court. We direct the State of Haryana to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

List on 6.3.2020.

Himachal Pradesh :

List on 6.3.2020.

No further orders are required at this stage.

As per the status report filed by the Union of India, it has offered to fund 3 exclusive POCSO Courts in the State of Himachal Pradesh. However, no information has been received by the Union of India from the State in this regard.

We direct the State of Himachal Pradesh to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

Union Territory of Jammu & Kashmir :

Keeping in view the peculiar situation of the Union Territory of Jammu & Kashmir, we direct that fresh affidavit be filed by the State as well as the Registrar General of the High Court on or before 6.1.2020.

List on 8.1.2020.

**Jharkhand :**

There are 24 judicial districts and in six districts there are more 100 cases. The State has already set up 8 exclusive POCSO Courts, therefore, no further orders are required at this stage.

According to the status report filed by the Union of India, the State has to set up 8 exclusive POCSO Courts and the funds for the same have been released by the Union of India.

List on 6.3.2020.

**Karnataka :**

In the State of Karnataka, there are 30 districts and as per the affidavit of the State, there are 17 districts which have more than 100 POCSO cases and as per the affidavit of the High Court, there are 18 such districts. As per the State affidavit there are 8 districts which have more than 200 POCSO cases, whereas as per the High Court affidavit, there are 9 such districts.

We, therefore, direct the State of Karnataka to ensure that in all the districts which have more than 100 cases at least one exclusive POCSO Court is set up and in those districts which have more than 300 POCSO cases, at least 2 exclusive POCSO Courts are set up along with support staff. They can avail of the benefit of the scheme floated by the Central Government. According to the status report of the Union of India funds has been released for setting up of 17 exclusive POCSO Courts.

We, therefore, direct the State of Karnataka to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

**Kerala :**

In Kerala there are 14 judicial districts. As per the information placed on record by the Registrar General of the High Court, there is one district which has more than 100 POCSO cases and 13 districts which have more than 200 POCSO cases. The State has set up only one exclusive POCSO Court in Ernakulam. In the other 13 districts, the District and Sessions Courts have been designated as POCSO Courts. This is against the spirit of our earlier orders referred to hereinabove.

According to the status report of the Union of India, funds for setting up 14 exclusive POCSO Courts have been released by the Department of Justice. We also direct the State of Kerala to ensure that in all the districts which have more than 100 cases, at least one exclusive POCSO Court is set up; and in those districts which have more than 300 POCSO cases at least 2 exclusive POCSO Courts along with support staff are set up.

We, therefore, direct the State of Kerala to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

**Madhya Pradesh :**

The State of Madhya Pradesh has not cared to file response either to the order of this Court dated 25.7.2019 or to the order dated 13.11.2019. None represents the State of Madhya Pradesh before us today. This is a deplorable state of affairs. We are dealing with a serious issue of child right and the State cannot abdicate its responsibility. We, therefore, impose exemplary costs of Rs.10 lakhs on the State of Madhya Pradesh, which shall be

deposited with the Madhya Pradesh State Legal Services Authority to be used exclusively for enhancing facilities in POCSO Courts. The High Court of Madhya Pradesh has filed an affidavit which reveals that there are 50 judicial districts in the State out of which 18 districts have more than 100 POCSO cases and 20 have more than 200 POCSO cases. It is stated that there are 28 exclusive POCSO Courts functioning in the State; keeping in view the parameters laid down above that there should be at least one exclusive POCSO Court in the districts wherever there are 100 POCSO cases; and at least 2 exclusive POCSO Courts wherever there are more than 300 POCSO cases.

As per the status report filed by the Union of India, it has offered to fund 26 exclusive POCSO Courts in the State of Madhya Pradesh. The funds for the same have already been released.

We, therefore, direct the State of Madhya Pradesh to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

Maharashtra :

There are 33 districts in the State of Maharashtra, out of which 4 have more than 100 POCSO cases and 26 districts have more than 200 POCSO cases. The status report of the Union of India shows that funds have been released for setting up 30 POCSO Courts.

As per the status report filed by the Union of India, it has offered to fund 30 exclusive POCSO Courts in the State of Maharashtra. The funds for the same have already been released.

We, therefore, direct the State of Maharashtra to

ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

List on 6.3.2020.

Manipur :

No further orders are required at this stage.

Meghalaya :

The State of Meghalaya has 11 districts, out of which one has more than 100 POCSO cases pending; and one has more than 200 POCSO cases pending. The State of Meghalaya has set up 4 exclusive POCSO Courts.

As per the status report filed by the Union of India, it has offered to fund 5 exclusive POCSO Courts in the State of Meghalaya. However, the State has not given its concurrence as yet.

The State of Meghalaya is at liberty to approach the Union of India for release of funds.

Nagaland :

No further orders are required at this stage.

Odisha :

There are 30 judicial districts in the State of Orissa, out of which 4 districts have more than 100 POCSO cases and 20 with more than 200 POCSO cases.

As per the status report filed by the Union of India, it has offered to fund 22 exclusive POCSO Courts in the State of Odisha. The funds for the same have already been released.

Applying the criteria set out hereinabove of setting up at least one POCSO Court in districts having more than



100 POCSO cases and at least two exclusive POCSO Courts in districts with more than 300 POCSO Courts, the State shall ensure that any additional POCSO Courts required shall be set up.

We, therefore, direct the State of Odisha to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 28.2.2020.

List on 6.3.2020.

Punjab :

In the State of Punjab, there are 22 districts in all, out of which in one district there are more than 100 POCSO cases and one district with more than 233 (less than 300 cases). Therefore, only two exclusive POCSO Courts are required to be set up in the State of Punjab.

As per the status report filed by the Union of India, it has offered to fund 2 exclusive POCSO Courts in the State of Punjab. The funds for the same have already been released.

We, therefore, direct the State of Punjab to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 28.2.2020.

List on 6.3.2020.

Rajasthan :

In the State of Rajasthan, there are 35 districts, out of which 12 districts have more than 100 cases and 14 have more than 200 cases. It has been pointed out that there are 56 exclusive POCSO Courts in the State of

Rajasthan, one in every district. According to the counsel appearing for the High Court of Rajasthan these Courts are dealing with POCSO cases and also rape cases, whereas according to the counsel for the State of Rajasthan, they are dealing with only POCSO cases.

We make it clear that as far as POCSO cases are concerned, they should be dealt with by exclusive POCSO Courts which should not deal with any other matters, as directed in our earlier order. We also make it clear that it is for the High Court and the State to decide in consultation with each other as to whether in those districts where there are less than 100 cases, there should be an exclusive POCSO Court or a Court which deals with both POCSO and rape cases. But wherever there are more than 100 POCSO cases, there should be at least one such Court dealing exclusively with POCSO cases and where there are more than 300 or more POCSO cases, there should be at least two Courts dealing with POCSO cases. We are happy to note that there are 56 Special Public Prosecutors in the State of Rajasthan dealing with POCSO cases exclusively. According to us, more than setting up of Courts, it is rationalization which has to be done in the State of Rajasthan.

As per the status report filed by the Union of India, it has offered to fund 26 exclusive POCSO Courts in the State of Rajasthan. The funds for the same have already been released.

We direct the State to ensure that exclusive POCSO Courts as per the parameters set out hereinabove are set up in the State, if not already done.

We, therefore, direct the State of Rajasthan to ensure that the State in consultation with the Chief Justice of the High Court complies with this order.

List on 6.3.2020.

Sikkim :

No orders need be passed at this stage.

Tamil Nadu :

In the State of Tamil Nadu, there are 32 judicial districts, out of which 16 districts have more than 100 POCSO cases and 8 have more than 200 cases. The response of the State of Tamil Nadu is that all Mahila Courts including Fast Track Courts, are notified to try POCSO Courts. It has further been stated that orders have been issued for setting up 16 Courts exclusively to deal with POCSO cases. Mahila Courts dealing with POCSO cases is not in consonance with our earlier order. We make it clear that in whichever districts there are more than 100 POCSO cases, at least one exclusive POCSO Court has to be set up and in every district where there are more than 300 POCSO cases or more; at least two exclusive POCSO Courts will have to be set up.

According to the status report filed by the Union of India, the State has set up 16 exclusive POCSO Courts but have received no communication from the Government for release of funds in terms of the orders passed by this Court. We direct the State of Tamil Nadu to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release of funds.

Mr. Tushar Mehta, learned Solicitor General of India assures that as soon as the information is received from the States, after verification of the same funds will be released.

We, therefore, direct the State of Tamil Nadu to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure

available with all support staff on or before 31.1.2020 and the Courts as per the parameters set out hereinabove are set up and start functioning at the earliest, at least not later than 28.2.2020.

List on 6.3.2020.

Telangana :

There are 10 districts, out of which one has 100 POCSO cases and 9 districts have 200 POCSO cases. The State on affidavit has stated that 9 Fast Tract Special Courts have been set up exclusively to deal with POCSO cases. We direct both the State and the High Court of Telangana to ensure that no cases other than POCSO are marked to these Courts.

As per the status report filed by the Union of India, it has offered to fund 10 exclusive POCSO Courts in the State of Telangana. However, the State of Telanagana has not given its concurrence as yet. We direct the State of Telangana to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release all funds.

We further direct that the exercise shall be carried out by the State and the High Court to determine whether more exclusive POCSO Courts are required in terms of our criteria laid down by this Court hereinabove.

In case more such Courts are required, the same shall be set up by the State in consultation with the Chief Justice of the High Court and all infrastructure should be made available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest, and not later than 1.3.2020.

List on 6.3.2020.

**Tripura :**

There is only one district with more than 100 cases and exclusive POCSO Court has already been set up, hence no further orders are required at this stage.

As per the status report filed by the Union of India, it has offered to fund 1 exclusive POCSO Court in the State of Tripura. The funds for the same have already been released.

**Uttarakhand :**

In the State of Uttarakhand one district has more than 100 POCSO cases and 3 districts with more than 200 such cases. The State has 4 exclusive POCSO Courts and 4 more such Courts are notified under the central scheme.

As per the status report filed by the Union of India, it has offered to fund 4 exclusive POCSO Courts in the State of Uttarakhand. The funds for the same have already been released.

We, therefore, direct the State of Uttarakhand to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

List on 6.3.2020.

**Mizoram :**

There are 11 districts in all, out of which one has more than 200 POCSO cases. The State of Mizoram is in the process of setting up three exclusive POCSO Courts.

We, therefore, direct the State of Mizoram to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than

1.3.2020.

According to the status report filed by the Union of India, the State has to set up 1 exclusive POCSO Courts but have received no communication from the Government for release of funds in terms of the orders passed by this Court. We direct the State of Mizoram to approach the Union Government within one week from today setting out the requirement of POCSO Courts in terms of the order passed today and the criteria laid down herein and we expect the Union of India to look into the matter for release of funds.

List on 6.3.2020.

The costs imposed by this Court earlier stand waived.

Uttar Pradesh and West Bengal :

There are two States, State of Uttar Pradesh and the State of West Bengal, for which we have to pass separate orders keeping the extremely deplorable state of affairs with regard to the POCSO Courts in both the States. It seems that these States are not concerned with the rights of children. More than four months have elapsed since orders having been passed by this Court. Virtually no efforts have been made to set up POCSO Courts. The situation is alarming in these two States and if special orders are not passed with regard to these two States, we may reach a situation where the judicial system in relation to POCSO case comes to grinding halt and if that happens, then the Rule of Law will break down and people will resort to revenge and violence outside the Court rooms. That has to be avoided at any cost. If the Rule of Law breaks down, only anarchy will prevail. We cannot have 'Kangaroo Courts' conducting trials of these cases.

For the State of Uttar Pradesh and State of West Bengal, we lay down the following criteria :

One exclusive POCSO Court in districts with

upto 300 POCSO cases pending;

two exclusive POCSO Courts in districts with 301 to 600 POCSO cases pending;

three exclusive POCSO Courts in districts with 601 to 1000 POCSO cases pending; and

four exclusive POCSO Courts in districts with 1000 or more POCSO cases pending.

### Uttar Pradesh

There are 74 districts in the State of Uttar Pradesh. It is shocking that in all the 74 districts, there are more than 100 POCSO cases pending. The total number of POCSO cases pending in the State of Uttar Pradesh is 44,000. This is virtually more than 25% of the total pendency of the POCSO cases in the country. There are no exclusive POCSO Courts set up in the State of Uttar Pradesh till date. The Union of India in its status report has identified 74 POCSO Courts and we have been informed that funds have also been released. The 74 Courts are going to be exclusively supported by the Central Government but the need for more such Courts in the State of Uttar Pradesh is going to be there and these Courts will have to be funded by the State of Uttar Pradesh. If the State of Uttar Pradesh cannot take care of the law and order situation and reduce the number of POCSO cases, then the State must take the responsibility and ensure that these trials take place as early as possible.

The status report filed by the Union of India discloses that under the central scheme 218 Courts have been sanctioned for the State of Uttar Pradesh, out of which 74 are exclusively for POCSO cases and even for the remaining the Central Government has given liberty to earmark them exclusively for POCSO cases. In 5 districts there are more than 100 POCSO cases, in 18 districts there

are more than 200 cases, in 19 districts there are more than 400 cases, in 16 districts there are more than 600 cases, in 6 districts there are more than 800 cases and in 10 districts there are more than 1000 cases pending. These figures are disputed by the State of Uttar Pradesh, but the dispute is insignificant. The State has high pendency of number of POCSO cases in the State.

We direct the Chief Secretary of the State of U.P. to sit with the Registrar General of the Allahabad High Court and determine the number of exclusive POCSO Courts required in terms of the criteria laid down hereinabove. If the number of courts required is more than the number funded by the Union government, the State is directed to provide necessary funds for extra courts.

We, therefore, direct the State of U.P. to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

List on 6.3.2020.

#### West Bengal

In the State of West Bengal there are 20 judicial districts, out of which one has more than 100 POCSO cases, two have more than 200 POCSO cases, 9 districts have 200 to 400 POCSO cases, 4 districts have between 400 to 600 POCSO cases, one district has 1000 to 1200 POCSO cases, one district has 1200 to 1600 POCSO cases, one district has 1600 to 2000 POCSO cases.

We direct the Chief Secretary of the State of West Bengal to sit with the Registrar General of the Calcutta High Court and determine the number of exclusive POCSO Courts required in terms of the criteria laid down hereinabove. If the number of courts required is more than



the number funded by the Union government, the State is directed to provide necessary funds for extra courts.

We, therefore, direct the State of West Bengal to ensure that the State in consultation with the Chief Justice of the High Court makes all infrastructure available with all support staff on or before 31.1.2020 and the Courts are set up and start functioning at the earliest and not later than 1.3.2020.

After such meetings we direct the State of West Bengal to approach the Union of India for release of funds and we direct the Union of India to ensure that funds in terms of the criteria laid down by us and also in terms of our order dated 25.7.2019 are released to the State of West Bengal within two weeks of the requisite information being supplied to it.

List on 6.3.2020.

Union Territories of Chandigarh, Dadra & Nagar Haveli, Daman & Diu and Puducherry :

No directions are required to be passed for these union territories at this stage.

Union Territory of Andaman & Nicobar :

There are 226 cases pending, therefore, as per the criteria laid down, they should have atleast one exclusive POCSO Court in the Union Territory of the Andaman & Nicobar.

We direct the Union Territory to ensure that such Courts are set up with all infrastructure and the support staff on or before 31.1.2020 and the Courts start functioning at the earliest, at least not later than 1.3.2020.

List on 6.3.2020.

After the order had been dictated Mr. Rahul Kaushik, Advocate, appeared for the State of Madhya Pradesh and requested that some more time may be granted to file an affidavit. He may file a proper application giving the reasons, as to why the affidavit was not filed earlier. He may file an affidavit in terms of our earlier orders and thereafter we may consider reducing the costs imposed earlier.

Exclusive Public Prosecutors for POCSO Cases and Human Rights Courts:

On 8.1.2020 this Court will also take up the issue of exclusive Public Prosecutors for POCSO courts and the facilities of Forensic Science Laboratories. With regard to the issue of Human Right Court, the matter will come up on 23.3.2020.

Trial:

Mr. Tushar Mehta, learned Solicitor General of India has brought to our notice an order dated 9.12.2019 passed by Shri Dharmesh Sharma, the District & Sessions Judge (West), seeking a clarification whether the case should be tried by him or by the Magistrate, if it is found by him that the cases are specifically triable by the Court of a Magistrate. Keeping in view the earlier orders and the nature of offence and the fact that the cases are interconnected with each other, we direct Shri Dharmesh Sharma to continue with all the five cases.

There are two letters written to us by the daughter of the accused. We request the Registry to supply copies of both the letters to the learned Amicus Curiae and learned Solicitor General in sealed cover. We will take up the issue on 8.1.2020.

We direct the Medical Superintendent, All India Institute of Medical Sciences that Shri Mahendra Singh, Advocate, who is in the state of coma as of now, shall be kept in AIIMS till further orders. The issue in relation to victim's health position shall also be heard on 8.1.2020. By that date, the Medical Superintendent of the AIIMS shall submit status report with regard to Advocate Shri Mahendra Singh. The Registrar (Judicial) may inform the Medical Superintendent, All India Institute of Medical Sciences of this portion of the order.

(Parveen Kumari Pasricha)  
Branch Officer

(Sarita Purohit)  
AR-cum-PS

\$~46.

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

+ BAIL APPLN. 619/2021

MANISH

..... Petitioner

Through: Mr. Arjun Singh Khurana, Advocate.

versus

STATE

..... Respondent

Through: Mr. Hirein Sharma, APP for State

Mr. Kanwal Jeet Arora, Member Secretary,

DLSA

Ms. Aishwarya Rao & Ms. Mansi Rao, Advocates  
for prosecutrix

Ms. Neelam Narang, Addl. P.P/ Incharge,

Rape Crisis Cell on behalf of DCW

Mr. Rajesh Deo, DCP (Legal) Headquarters and

Mr. Rajan Bhagat, Consultant CRO

Ms. Prabhsahay Kaur, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**(VIA VIDEO CONFERENCING)**

**ORDER**

% **27.08.2021**

1. The present application has been filed under Section 439 Cr.P.C. on behalf of the applicant seeking regular bail in FIR No. 8/2020 registered under Sections 376D/377/34 IPC at Police Station Sarai Rohilla, Delhi.

2. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and is in custody since 22.12.2020. He submits that the charge sheet having been filed, the applicant is no longer required for the purpose of investigation. He further submits that the allegations levelled in the FIR are unbelievable as the prosecutrix, who is a

married woman and lives in the neighbourhood of the applicant, has not even named him in the FIR. He has relied on the FSL report to submit that the same is in favour of the applicant as his DNA profile has not matched. In this regard, learned counsel has also placed reliance on the MLC of the prosecutrix where, in the history of assault, it was recorded that she was assaulted by three unknown persons.

3. Learned APP for the State, duly assisted by learned counsel for the complainant, has vehemently opposed the bail application. It is submitted that the present incident occurred on the night of 10.12.2020. The complainant has stated that on the day of the incident, she had a dispute with her family members wherefore she had left her house at around 11:30 p.m. and gone to the nearby railway station. While she was sitting there on a bench, three people came to her and offered her chips. On her refusal, those persons forcibly lifted her, removed her garments and raped her in the bushes near the railway track. She was also beaten. She described the accused persons to be in the age group of 20-25 years. It is also submitted that the present applicant was arrested on the pointing out of the complainant.

4. I have heard learned counsels for the parties and also gone through the materials placed on record.

5. The complainant's statement under Section 164 Cr.P.C. was recorded on 15.12.2020 followed by another statement recorded under Section 161 Cr.P.C. A perusal of those statements would show that the complainant has narrated the incident and stated the manner in which she was forcibly raped. The arrest memo of the applicant has been placed on record and the same is witnessed by the complainant. The complainant's medical examination was

conducted on 11.12.2020 at about 09:55 a.m. at *Sanjay Gandhi Hospital* and her MLC has been placed on record. As per the MLC, the examining doctor observed that the hymen, labia minora and fourchette of the complainant were torn and there was blood stain present all over perineum. On local examination, it was also observed that there were injuries on the body of the victim, including left black eye with swelling. The injuries have been opined to be grievous in nature. It is worthwhile to note that though the complainant had not named the applicant on the first day, she named him on the very next day when her statement under Section 161 Cr.P.C. was recorded. The applicant was arrested at the pointing out of the complainant. From the above, on a *prima facie* view, it is apparent that the allegations levelled by the prosecutrix stand corroborated by the medical evidence in the form of her MLC.

6. Keeping in view the aforesaid, this Court is not inclined to release the applicant on bail and the bail application is accordingly dismissed.

7. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case.

8. On the last date of hearing, a shortcoming was noted on the aspect of award of interim compensation under the Delhi Victims Compensation Scheme, 2018 to the prosecutrix/victim. Mr. Kanwal Jeet Arora, Member Secretary, DLSA informed that insofar as providing interim compensation to the victims under the Delhi Victims Compensation Scheme is concerned, the DLSA relies on the intimation sent to it by Delhi Police and Delhi Commission for Protection of Child Rights. He stated that as soon as such an intimation is received, the Nodal Officer in DLSA initiates steps so that

the victim is provided interim compensation as well as counselling. It was informed that the complainant in the present case has been awarded interim compensation of Rs.2,50,000/-.

9. Noting the above information, this Court had directed the presence of Mr. Rajesh Deo, DCP (Legal) Headquarters and Mr. Rajan Bhagat, Consultant CRO, to apprise them of the situation so that necessary corrective steps could be taken.

10. Today, Mr. Kanwal Jeet Arora, Member Secretary, Delhi State Legal Services Authority (DLSA), Mr. Rajesh Deo, DCP (Legal) Headquarters and Mr. Rajan Bhagat, Consultant CRO, have joined the V.C. proceedings.

11. Mr. Rajan Bhagat, Consultant CRO, has informed that as per the available setup, as soon as a case is registered either under Sections 376/363 IPC or under the provisions of the POCSO Act, an intimation is immediately sent to the DLSA.

12. Ms. Neelam Narang, learned APP for DCW, has referred to the affidavit placed on record on behalf of DCW and the Standard Operating Procedure of the Rape Crisis Cell/Crisis Information Centre to outline the nature of steps taken by the Commission on receipt of intimation of a case. She submits that besides regular counselling through a Support Person duly appointed by the Commission, training for life-support skills is also provided to the victims. It is submitted that in the present case, the prosecutrix has decided to stay at the *CWC Shelter Home at Bapuno Dham, Bhagwan Das Road* and has desired to undergo a beautician course, for which necessary steps in coordination with the management of the Shelter Home have already been undertaken.

13. Learned counsel, Ms. Prabhsahay Kaur, has also referred to the POCSO Rules, 2020, Standing Order no. 303/2019 and the orders passed by this Court to submit that detailed step-by-step directions/guidelines have been provided in respect of the present issue on multiple occasions.

14. However, this Court during the course of proceedings conducted on the last date of hearing, was constrained to note that not only the victim in the present case, but also the victims in the cases arising out of FIR Nos. 358/2015 and 833/2020 registered at Police Station Pul Prahladpur, Delhi and Police Station New Usmanpur, Delhi respectively, were not provided any interim compensation, which the Court came to observe while hearing BAIL APPLN. Nos. 2612/2021 and 1680/2021 on that date. In fact, the child victim in FIR no. 358/2015 is only 7 years old and when Ms. Aishwarya Rao, learned counsel for Delhi High Court Legal Services Committee, interacted with the child victim's father, she was told about the psychological trauma that the child victim continues to go under. The child victim's father is stated to have informed that no counselling or psychological support has been provided by any agency, while he also expressed his helplessness in providing the same to the child victim, his own son.

15. Mr. Kanwal Jeet Arora has stated that on cross-checking the records, it is found that intimation in the aforementioned three FIRs was never received by DLSA.

16. On being apprised of the above, both Mr. Rajesh Deo, DCP (Legal) Headquarters and Mr. Rajan Bhagat, Consultant CRO, have submitted that a meeting of all the stakeholders shall be convened to discuss the issue and necessary corrective steps will be undertaken so that no further default



and/or miscommunication occurs in timely forwarding of information to DSLA. It is suggested that some mechanism can be put in place for sharing of weekly/monthly data with DLSA of cases registered under Sections 376/363 IPC and/or the POCSO Act so that miscommunication, if any, can be rectified. Mr. Rajesh Deo submits that an affidavit to this effect shall be placed on record detailing the corrective course of action planned to be undertaken.

17. Ms. Prabhsahay Kaur also seeks some time to place on record the relevant documents and the orders passed in relation to the issue at hand.

18. Re-notify for the aforesaid purpose on 29.09.2021.

**MANOJ KUMAR OHRI, J**

**AUGUST 27, 2021**

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*Click here to check corrigendum, if any*

\$~144 to 146

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

+ BAIL APPLN. 619/2021 & CRL.M.A. 7163/2022

MANISH

..... Petitioner

versus

STATE

..... Respondent

145

+ BAIL APPLN. 2612/2021

AZAD BILLU @ BALLU

..... Petitioner

versus

STATE NCT OF GOVT. OF DELHI

..... Respondent

146

+ BAIL APPLN. 3171/2021

UMESH

..... Petitioner

versus

STATE (NCT OF DELHI)

..... Respondent

### **MEMO OF APPEARANCE**

Mr Hirein Sharma, APP for State

Ms Aishwarya Rao and Ms Mansi Rao, Advs. for prosecutrix/victim

Ms Neelam Narang, Addl. P.P. /Incharge Rape Crises Cell, DCW

Ms Prabhsahay Kaur, Adv. for BBA

Mr. Kanwal Jeet Arora, Secretary, DSLSA

**CORAM:**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

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**26.04.2022**

Pursuant to the order dated 19.04.2022, Mr Kanwal Jeet Arora, Secretary, DSLSA is present and fairly states that BAIL APPLN. Nos. 619/2021, 2612/2021 and 3171/2021 needs to be de-tagged and heard

Signature Not Verified

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By:AMIT ARORA  
Signing Date:28.04.2022  
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separately.

For the said reason, order dated 11.04.2022 is varied and the BAIL APPLN. Nos. 619/2021, 2612/2021 and 3171/2021 are de-tagged from CRL.A. 63/2022.

Mr. Kanwal Jeet Arora, Secretary, DSLSA, learned counsel for DSLSA submits that they have collated a list of 87,405 FIRs between January, 2012 to December 2017 wherein the FIRs were not forwarded from Delhi Police to DSLSA. He submits that out of 87,405 FIRs, there may be some cases in which no offence has been made out and there may be some cases where compensation has been paid.

Let the DSLSA give a detailed tabulation indicating cases where no offence has been made, cases where compensation has been paid and cases where compensation is yet to be paid. The affidavit shall also indicate further steps taken by DSLSA in that regard.

List on 31.05.2022 for compliance.

**JASMEET SINGH, J**

**APRIL 26, 2022**

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*[Click here to check corrigendum, if any](#)*

\$~16 to 18

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

+ BAIL APPLN. 619/2021 & CRL.M.A. 7163/2022

MANISH

..... Petitioner

Through: Ms. Prabhsahay Kaur, Ms. Laavanya  
Kaushik, Advs.

versus

STATE

..... Respondent

Through: Mr. Hirein Sharma, APP for State,  
Ms. Aishwarya Rao, Ms. Mansi Rao,  
Advs.  
Ms. Neelam Narang, Addl. PP, DCW,  
Ms. Yanmi Phazang, Legal  
Supervisor, DCW  
Mr. Ajay Verma, Adv. DSLSA

17

+ BAIL APPLN. 2612/2021

AZAD BILLU @ BALLU

..... Petitioner

Through: Ms. Prabhsahay Kaur, Ms. Laavanya  
Kaushik, Advs.

versus

STATE NCT OF GOVT. OF DELHI

..... Respondent

Through: Mr. Hirein Sharma, APP for State,  
Ms. Aishwarya Rao, Ms. Mansi Rao,  
Advs.  
Ms. Neelam Narang, Addl. PP, DCW,  
Ms. Yanmi Phazang, Legal  
Supervisor, DCW

18

+ BAIL APPLN. 3171/2021

UMESH

..... Petitioner

Through: Ms. Prabhsahay Kaur, Ms. Laavanya  
Kaushik, Adv.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Hirein Sharma, APP for State,  
Ms. Aishwarya Rao, Ms. Mansi Rao,  
Adv.

**CORAM:**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

**31.05.2022**

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On 26.04.2022, this Court had directed DSLSA to submit a detailed tabulation indicating cases, where no offence has been made out, cases where compensation has been paid and cases where compensation is yet to be paid. The affidavit was also required to indicate further steps taken by DSLSA in this regard. The said affidavit has been filed by the Member Secretary, DSLSA on 20.05.2022. As per the affidavit, out of 87,405 cases relating to POCSO cases, the DSLSA has been able to gather information of only 6,052 cases. Out of 6,052 cases, compensation has not been paid to 2,563 cases. The DSLSA is endeavouring to collate information with regard to balance approximate 81,000 cases.

The DSLSA shall endeavour to process the entire 87,000 applications

and will try to disburse compensation in all the cases where it is found due, in accordance with law.

List the matter on 05.07.2022.

**JASMEET SINGH, J**

**MAY 31, 2022/dm**

*[Click here to check corrigendum, if any](#)*

\$~5 to 7

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

+ BAIL APPLN. 619/2021 & CRL.M.A. 7163/2022

MANISH ..... Petitioner

versus

STATE ..... Respondent

+ BAIL APPLN. 2612/2021

AZAD BILLU @ BALLU ..... Petitioner

versus

STATE NCT OF GOVT. OF DELHI ..... Respondent

+ BAIL APPLN. 3171/2021

UMESH ..... Petitioner

versus

STATE (NCT OF DELHI) ..... Respondent

**MEMO OF APPEARANCE:**

Ms Aishwarya Rao and Ms Mansi Rao, Advs. for victim/prosecutrix for DHCLSC

Ms Neelam Narang, Addl. P.P/Incharge Rape Crisis Cell, DCW with Ms Yamni Phazang, Legal Supervisor, Rape Crisis Cell, DCW for Delhi Commission for women in BAIL APPLN. 619/2021 and BAIL APPLN. 2612/2021

Ms Prabhsahay Kaur, Ms Rachna Tyagi, Ms Bindita Chaturvedi and Ms Shashi Chaurasia, Advs. for respondents in BAIL APPLN. 619/2021.

Mr Ajay Verma and Mr Gaurav Bhatla Chavya, Advs. for DSLSA in BAIL APPLN. 619/2021

Mr Hirein Sharma, APP for State

**CORAM:**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

% **05.07.2022**

Pursuant to the order dated 31.05.2022, DSLSA has filed a further status report. The status report does not indicate the numbers or the amounts

of disbursements of compensation that has been made till date. Let a further status report be filed indicating the disbursements made till date to the victims.

As per the status report, as on 30.06.2022, 885 applications have been moved out of 5503 pending cases.

Mr Verma, learned counsel appearing for DSLSA states that this was on account of summer vacation and in the next status report, the numbers would be substantially higher.

The chart in para 6 shows that South East DLSA has only moved six applications whereas there are 302 pending cases in South East District. The Secretary, South East DLSA is requested to look into it and file an affidavit indicating the reasons as to why only six applications for compensation have been filed.

It has been brought to my notice that when the applications are moved before the Special Court for interim compensation, it takes two to three hearings before any effective order is passed in the said application. Rule 9 (1) of POCSO read as under:

*“The Special Court may, in appropriate cases, on its own or on an application filed by or on behalf of the child, pass an order for interim compensation to meet the needs of the child for relief or rehabilitation at any stage after registration of the First Information Report. Such interim compensation paid to the child shall be adjusted against the final compensation, if any.”*

I may note that a bare perusal of the Rule shows that the Special Court on its own or on an application can pass an order for interim compensation.



According to me, the Special Court need not wait for an application to be filed by a child victim before passing an order for interim compensation and must on its own initiate action for grant of interim compensation at the earliest.

The trigger for grant of interim compensation by the Special Court should be Rule 4 (14) which reads as under:

*“4 Procedure regarding care and protection of child.*

*(14)SJP or the local police shall also inform the child and child's parents or guardian or other person in whom the child has trust and confidence about their entitlements and services available to them under the Act or any other law for the time being applicable as per Form A. It shall also complete the Preliminary Assessment Report in Form B within 24 hours of the registration of the First Information Report and submit it to the CWC.”*

The Special Court must rely on the preliminary assessment report in Form B which is to be filed within 24 hours of the registration of the FIR.

Since there are only 5,503 pending cases, as a corollary, 81,902 must have been disposed of. There is no data with regard to the fact whether any compensation has been paid in those 81,902 cases.

As regards 81,902 cases, Mr Verma has drawn my attention to the SOP which is proposed to be followed in the disposed of cases. However, DSLSA anticipates the problems which are enumerated below:

<b><u>Anticipated Problems</u></b>	<b><u>Directions prayed for</u></b>
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<p>1 District Courts may insist that all applications for compensation be filed through filing counter and be accompanied with documents such as copy of FIR; MLC; statement of victim under Section 164 Cr.P.C. This may become quite cumbersome and expensive an exercise.</p>	<p>District Courts may kindly be directed to dispense with the filing of said documents at the time of filing an application for compensation under DVCS as these documents would be already available in the respective case files.</p>
<p>2. Courts may not permit inspection of record of disposed off cases by the RCC Advocate/LAC appointed for this purpose since they were not the counsel during the pendency of the trial.</p>	<p>Directions may kindly be given to the District Courts to permit RCC lawyer/ LAC to inspect the record of disposed off cases to see whether an application for compensation is required to be moved (especially in the light of directions passed by this Hon'ble Court in the present matter).</p>

On the two anticipated problems, it would be prudent, if views of Hon'ble District Judges is also solicited so that necessary directions can be passed. Let a copy of Annexure C of the status report be forwarded to the learned District Judges with a request to give their views within a period of two weeks from today.

The respondents shall file a further status report within four weeks from today.

Mr Verma makes a request that Special Courts may be directed to inform the victims about their right to move application under DVCS in the

pending cases. It is directed that the Special Court shall inform the victims about their right to move application under DVCS when the case comes up for hearing before them.

List on 02.09.2022 for further proceedings.

**JASMEET SINGH, J**

**JULY 5, 2022**

sr

*Click here to check corrigendum, if any*

\$~45 to 47

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

+ BAIL APPLN. 619/2021 & CRL.M.A. 7163/2022

MANISH ..... Petitioner

Through:

versus

STATE ..... Respondent

Through: Mr. Ajay Vikram Singh, APP

Mr. Ajay Verma, Adv. (DSLISA)

Ms Harshita Mishra, Secretary, Litigation, DSLISA (on VC)

Ms. Neelam Narang, Ms. Yanmi Phazang, Advs.

WSI Birmati Yadav, PS Sarai Rohella

Ms. Prabhsahay Kaur, Mr. Bhuwan Ribhu, Ms. Rachna Tyagi,

Ms. Bindita Chaturvedi, Ms. Shilpa Dewan, Ms. Taruna

Panwar, Advs.

Ms. Aishwarya Rao, Mr. Mansi, Advs. for Complainant

46

+ BAIL APPLN. 2612/2021

AZAD BILLU @ BALLU ..... Petitioner

Through:

versus

STATE NCT OF GOVT. OF DELHI ..... Respondent

Through: Mr. Ajay Vikram Singh, APP

Ms Harshita Mishra, Secretary, Litigation, DSLISA (on VC)

Ms. Neelam Narang, Ms. Yanmi Phazang, Advs.

Ms. Aishwarya Rao, Mr. Mansi, Advs. for Complainant

47

+ BAIL APPLN. 3171/2021

UMESH ..... Petitioner

Through:

versus

STATE (NCT OF DELHI) ..... Respondent

Through: Mr. Ajay Vikram Singh, APP

Ms Harshita Mishra, Secretary, Litigation, DSLISA (on VC)

Ms. Aishwarya Rao, Mr. Mansi, Advs. for Complainant

**CORAM:**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

**12.12.2022**

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1. Mr. Ajay Verma, Counsel for the DSLSA, submits that a status report has been filed on behalf of DSLSA in the interregnum. He submits that after the last date of hearing, meetings were held with all concerned stakeholders and attempt was made to formulate a mechanism for filing applications for compensation on behalf of victims in disposed of cases involving sexual offences. Mr. Verma submits that during the course of deliberations, a few probable issues that may crop up while dealing with disposed of cases were flagged by different stakeholders.
2. One issue that was likely to crop up was regarding the Concerned Judges/ Ahlmads/ Record Room Incharges may not permit fresh counsels to inspect the judicial records, since they were not representing the victims during the pendency of the case. It is quite probable that these newly engaged counsels may be denied the opportunity to scan the judicial records considering the privacy and confidentiality issues involved in cases pertaining to sexual offences. Mr. Verma as well as Ms. Harshita Mishra, Secretary (Litigation), DSLSA have solicited directions from this Court so that the concerned officials i.e. Judges/ Ahlmads/ Record Room in- charges permit the newly engaged counsels to inspect the judicial records of disposed of cases, so that they may make a report regarding the need to move compensation application or not. Ms. Mishra, Secretary (litigation), DSLSA further submits that BTFs (Brief Transmission Forms)/ entrustment letters/ authorization letters shall be issued in favour of the counsels for the specific purpose of inspecting records of disposed of cases. She has further apprised this Court that Ms. Prabhsahay Kaur, counsel for Bachpan Bachao Andolan (BBA) had graciously offered to

provide team of counsels for file inspection (in collaboration with Kailash Satyarthi Children's Foundation) as DSLSA found itself in a conundrum regarding payment of fees for inspection in disposed of cases to the empaneled lawyers of DSLSA. Ms. Mishra submits that entrustment letters/ authorization letters shall be issued in favour of one of the Lawyers from the team of lawyers provided by BBA for the limited remit of inspecting records of disposed of cases. She further submits that the entrustment letter shall contain all particulars of the counsels such as Enrolment Number, mobile number, email ID and address. She further submits that before the task of inspection is entrusted to these counsels, special sessions for sensitizing them and briefing them about the work to be done shall be conducted. They shall be specially sensitized about the need to maintain confidentiality of the matter and respect for privacy of the sexual assault survivor.

3. Ms. Mishra, Secretary (Litigation), DSLSA has further solicited directions of this Court for the Ld. Principal District and Sessions Judges to direct the concerned officials to ensure that the records of disposed of cases (POCSO cases/ Rape Cases/ other sexual offences) are made available for inspection at the earliest and in substantial numbers so that the team of counsels being engaged for file inspection can start inspecting the judicial records at the earliest and so that the compensation applications can be filed at the earliest in the deserving cases.
4. Ms. Mishra, Secretary (litigation), DSLSA and Ms. Prabhsahay Kaur, Counsel for BBA have further flagged another issue which might crop up while dealing with the question of moving applications in disposed

of cases i.e. the issue of limitation as per which compensation applications can only be moved within 3 years of the offence or conclusion of trial, as mentioned in Clause 16 of the Part II of the Delhi Victims' Compensation Scheme- 2018. They have expressed this apprehension that many Courts/ District Victim Compensation Committees (DVCCs) may not entertain applications for compensation in such cases where trial concluded more than 3 years back.

5. I have heard the submissions of the counsels and the Secretary (Litigation), DSLSA at length and considered the prayers made by them.
6. With a view to pre-empt the difficulties likely to be faced qua file inspection by the proposed team of lawyers of BBA, I deem it fit to direct the Ld. Principal District and Sessions Judges to direct the concerned Judges/ *Ahlmads* / Record Room In-charge to identify and trace out the files of the disposed of POCSO cases/ Rape cases/ other sexual offence cases expeditiously and to permit inspection by the Lawyers provided by BBA (in whose favour DSLSA issues entrustment/ authorization letter), so that the records can be inspected and appropriate applications for compensation can be filed at the earliest. Needless to say that these lawyers shall be sensitized with regard to maintaining the confidentiality and respect for privacy of the victim while inspecting records and making reports as proposed.
7. Regarding the apprehension of the Counsels and Secretary (Litigation), DSLSA qua Courts/ DVCCs rejecting to entertain applications for compensation on the ground that the same are barred by limitation, I am of the view that since no limitation for filing an application for

compensation is provided under Section 357(A) of the Cr.PC or Section 33 of the POCSO Act, such a provision under the Part-II of the Delhi Victims' Compensation Scheme (DVCS)-2018 cannot be used/ invoked in a hyper- technical manner to defeat the rights of the victim for whose assistance and support the entire Scheme has been formulated. Hence, to obviate the possibility of the victim's right to compensation being fettered or curtailed on the technical plea of limitation alone, I deem it fit to clarify that there will be no requirement to file a separate application for condonation of delay in seeking compensation. The limitation shall not come in the way of moving applications for compensation in disposed of cases. The concerned DVCC/ Special Court shall read Clause 16 of Part-II of DVCS- 2018 liberally and entertain applications for compensation and thereafter, decide the same on merits.

8. DSLSA in the meanwhile is directed to start moving applications on behalf of the victims in disposed of cases at the earliest and file a fresh report on the NDOH. Needless to say that the exercise of moving applications for compensation in pending cases shall continue as before and report regarding the same be also filed on the NDOH. BBA, RCC, Delhi Police and Directorate of Prosecution to provide all necessary assistance to DSLSA so that the latter can meaningfully and effectively perform the task of moving applications for compensation on behalf of the victims of sexual offences, in the cases registered between 2012-2017.



9. Re-notify on 10.02.2023.

**JASMEET SINGH, J**

**DECEMBER 12, 2022 / (MS)**

*Click here to check corrigendum, if any*

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION****WRIT PETITION (CIVIL) NO. 427 OF 2022****BACHPAN BACHAO ANDOLAN****...APPELLANT(S)****VERSUS****UNION OF INDIA & ORS.****...RESPONDENT(S)****J U D G M E N T****S. RAVINDRA BHAT, J.**

1. The enactment and bringing into force of The Protection of Children from Sexual Offences Act, 2012 (hereafter ‘Act’ or ‘POCSO Act’) was not merely in furtherance of this country’s commitment to international instruments, but its resolve to and attempt at creating a world as secure and as free from fear, for the most innocent and vulnerable section of its citizens, i.e., children and young adults. Behaviour - physical, verbal, and non-verbal, ranging from what discomfits a child to as horrifying as rape and physical sexual abuse have been criminalized. Special mechanisms to provide access to the justice delivery system, and ensure speedy justice, have been devised. Yet, a society’s commitment to such a cause does not cease by mere enactment of any law, but its willingness, and those governing and administering it, to create and ensure *effective overall frameworks* which support and strengthen its institutions.

2. The present writ petition, arose from the strife caused to an individual victim in her painstaking struggle for justice while navigating the police, investigation stage, and court processes, for the prosecution of an offence under the POCSO Act. At numerous stages, she was revictimised, and faced severe hardships; the issues arising from the individual case, have been dealt with by way of continuing mandamus, wherein this court through a series of orders has monitored the aspects requiring special attention. During those proceedings, it was noticed that the role of a ‘support person’ as envisaged<sup>1</sup> in the Protection of Children from Sexual Offences Rules, 2020 (hereafter ‘POCSO Rules, 2020’), despite being a progressive step – remains unfulfilled, or is given effect to, in a partial or *ad-hoc* manner, thus limiting its positive potential in offering support to victims and their families.

3. From the point of registering an FIR/complaint under the POCSO Act, the victim and their family are required to interact with the police machinery, medical officers and hospitals, the Magistrate, Special Court and/or Juvenile Justice Board (hereafter ‘JJB’), the concerned Child Welfare Committee (hereafter ‘CWC’), and other stakeholders – which in itself can be daunting and overwhelming (over and above the already traumatic experience of the crime itself), often dissuading them from pursuing the case altogether. Noticing the need for support at various stages, the role of a ‘support person’ was institutionalised in the POCSO Rules, 2020, to fill this lacuna:

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<sup>1</sup>Introduced first in the Protection of Children from Sexual Offences Rules, 2012 which has since been repealed and substituted by the far more detailed Protection of Children from Sexual Offences Rules, 2020.

**“2. Definitions.—**(1) *In these rules, unless the context otherwise requires,—*

*[...]*

(f) *“support person” means a person assigned by the Child Welfare Committee, in accordance with sub-rule (7) of rule 4, to render assistance to the child through the process of investigation and trial, or any other person assisting the child in the pre-trial or trial process in respect of an offence under the Act;*

**4. Procedure regarding care and protection of child.—**

*[...]*

(8) *The CWC, on receiving a report under sub-section (6) of section 19 of the Act or on the basis of its assessment made under sub-rule (5), and with the consent of the child and child’s parent or guardian or other person in whom the child has trust and confidence, may provide a support person to render assistance to the child in all possible manner throughout the process of investigation and trial, and shall immediately inform the SJPU or Local Police about providing a support person to the child.*

**5. Interpreters, translators, special educators, experts and support persons.—**

*[...]*

(6) *Support person may be a person or organisation working in the field of child rights or child protection, or an official of a children’s home or shelter home having custody of the child, or a person employed by the DCPU:*

*Provided that nothing in these rules shall prevent the child and child’s parents or guardian or other person in whom the child has trust and confidence from seeking the assistance of any person or organisation for proceedings under the Act.”*

Clearly delineating the scope of assistance to be rendered by a support person, the Rules also stipulate that if the CWC, in contravention of its duties fails to appoint one, or for whatever reason, the child victim and their family wish to engage someone else, they are free to seek assistance from a qualified support person externally [ref: proviso to Rule 5(6)]. Termination of their services, for whatever reason, is also covered under Rule 4(11).

4. A support person is to provide information, emotional and psychological support, and practical assistance which are often crucial to the recovery of the

child. This can go a long way in helping them cope with the aftermath of the crime and with the strain of any criminal proceedings – in many ways a support person, acts as guardian *ad litem* for the child.<sup>2</sup> The specific roles and responsibilities, that are expected to be fulfilled are as follows:

**4. Procedure regarding care and protection of child.–**

[...]

(9) *The support person shall at all times maintain the confidentiality of all information pertaining to the child to which he or she has access and shall keep the child and child's parent or guardian or other person in whom the child has trust and confidence, informed regarding the proceedings of the case, including available assistance, judicial procedures, and potential outcomes. The Support person shall also inform the child of the role the Support person may play in the judicial process and ensure that any concerns that the child may have, regarding child's safety in relation to the accused and the manner in which the Support person would like to provide child's testimony, are conveyed to the relevant authorities.*

(12) *The CWC shall also seek monthly reports from support person till the completion of trial, with respect to condition and care of child, including the family situation focusing on the physical, emotional and mental wellbeing, and progress towards healing from trauma; engage with medical care facilities, in coordination with the support person, to ensure need-based continued medical support to the child, including psychological care and counseling; and shall ensure resumption of education of the child, or continued education of the child, or shifting of the child to a new school, if required.*

(13) *It shall be the responsibility of the SJPU, or the local police to keep the child and child's parent or guardian or other person in whom the child has trust and confidence, and where a support person has been assigned, such person, informed about the developments, including the arrest of the accused, applications filed and other court proceedings.*

(14) *SJPU or the local police shall also inform the child and child's parents or guardian or other person in whom the child has trust and confidence about their entitlements and services available to them under the Act or any other law for the time being applicable as per Form-A. It shall also complete the Preliminary Assessment Report in Form B within 24 hours of the registration of the First Information Report and submit it to the CWC.*

(15) *The information to be provided by the SJPU, local police, or support person, to the child and child's parents or guardian or other person in whom the child has trust and confidence, includes but is not limited to the following:-*

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<sup>2</sup>Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012, issued by the Ministry of Women and Child Development, Government of India, p. 50. <<https://wcd.nic.in/sites/default/files/POCSO-ModelGuidelines.pdf>> (last accessed on 15.08.2023).

- (i) the availability of public and private emergency and crisis services;
- (ii) the procedural steps involved in a criminal prosecution;
- (iii) the availability of victim's compensation benefits;
- (iv) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;
- (v) the arrest of a suspected offender;
- (vi) the filing of charges against a suspected offender;
- (vii) the schedule of court proceedings that the child is either required to attend or is entitled to attend;
- (viii) the bail, release or detention status of an offender or suspected offender;
- (ix) the rendering of a verdict after trial; and (x) the sentence imposed on an offender.

**5. Interpreters, translators, special educators, experts and support persons.—**

[...]

(10) The interpreter, translator, special educator, expert, support person or person familiar with the manner of communication of the child engaged to provide services for the purposes of the Act shall be unbiased and impartial and shall disclose any real or perceived conflict of interest and shall render a complete and accurate interpretation or translation without any additions or omissions, in accordance with section 282 of the Code of Criminal Procedure, 1973 (2 of 1974).

(11) In proceedings under section 38, the Special Court shall ascertain whether the child speaks the language of the court adequately, and that the engagement of any interpreter, translator, special educator, expert, support person or other person familiar with the manner of communication of the child,

(12) Any interpreter, translator, special educator, expert or support person appointed under the Act shall be bound by the rules of confidentiality, as described under section 127 read with section 126 of the Indian Evidence Act, 1872 (1 of 1872).

**10. Procedure for imposition of fine and payment thereof.—**

(1) The CWC shall coordinate with the DLSA to ensure that any amount of fine imposed by the Special Court under the Act which is to be paid to the victim, is in fact paid to the child.

(2) The CWC will also facilitate any procedure for opening a bank account, arranging for identity proofs, etc., with the assistance of DCPU and support person.”

5. In addition to maintaining confidentiality of all information, and addressing the concerns of the child and family, the support person is responsible for accompanying the child during recording of statement, medical

examination, depositions<sup>3</sup>, and to assist in all other interactions at the investigation, pre-trial, and trial stage. The support person is to make available public or private emergency and crisis services; ensure availability of free legal aid; provide assistance with navigating the victim compensation scheme; track the status of investigation, arrest, and filing of charges of the accused person; follow the dates of the court proceedings to enable the victim or family to attend as required; and be abreast of any other developments such as grant of bail, detention status, etc. of the accused.

6. A support person – whether involved from the early stages of lodging a report or brought on board shortly thereafter - can play a tremendous role in offering encouragement, reassurance, and guidance, merely from their knowledge of the legalese, armed with a compassionate child-friendly approach. Their potential in providing moral support and guidance, which directly translates to better and more just outcomes both in terms of prosecution, and rehabilitation, cannot be overstated. To fulfil their role as envisaged, their primary focus, must be the child's immediate care and protection, and to play the role of a helpful intermediary between the child, its family/guardian, and the various institutional stakeholders and authorities. In these interactions, the support person, should bear in mind the principles enunciated in Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 while engaging with the child victim, and their families. These include – the principles of

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<sup>3</sup>The importance of a support person accompanying the child victim at the time of recording statement and deposition, has also been recognised in the Witness Protection Scheme, 2018.

dignity and worth, participation, best interest, safety, positive measures, non-stigmatising semantics, non-waiver of rights, equality and non-discrimination, and right to privacy and confidentiality.

7. There are numerous aids prepared, to help in understanding the role of the support person, and how to maximise their impact. The Ministry of Women and Child Development released the *Model Guidelines under Section 39 of The Protection of Children from Sexual Offences Act, 2012*<sup>4</sup> (hereafter ‘*Model Guidelines*’) which offers detailed guidance for the use of professionals and experts under the POCSO Act (albeit issued in 2013, i.e., prior to the POCSO Rules, 2020). Similarly, another useful resource tailored specifically for the use of support persons, is the ‘Handbook for Support Persons 2021 – Assisting Child Victims of Sexual Violence’<sup>5</sup> which is a handy open access resource, available for download from the internet. These resources, comprehensively elucidate child-friendly best practices, and explain what *not* do, as a support person, in a lucid and accessible manner.

8. It is pertinent to mention that the POCSO Rules, also contain ‘Form-A’ which as per Rule 4(14) is to be handed over to the child victim, parents/guardian, or any other person in whom the child trusts, to inform them of the entitlements the child victim must receive as information and services. This form re-emphasises the importance of a support person in each case, and is

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4<<https://wcd.nic.in/sites/default/files/POCSO-ModelGuidelines.pdf>> (last accessed on 15.08.2023).

5Published by Enfold, Prerana and UNICEF, this handbook was launched on 10.03.2022, and is available on open access terms: <[https://enfoldindia.org/wp-content/uploads/2022/03/Handbook-for-Support-Persons-2021-Released-on-10\\_3\\_2022.pdf](https://enfoldindia.org/wp-content/uploads/2022/03/Handbook-for-Support-Persons-2021-Released-on-10_3_2022.pdf)> (last accessed on 15.08.2023).



also indicative of the stages at which such a support person can play a role in:

**FORM-A**

**Entitlement of children who have suffered sexual abuse to receive information and services**

1. To receive a copy of the FIR.
2. To receive adequate security and protection by Police.
3. To receive immediate and free medical examination by civil hospital/PHC etc.
4. To receive Counseling and consultation for mental and psychological well being
5. For Recording of statement of child by woman police officer at child's home or any other place convenient to child
6. To be moved to a Child Care Institution where offence was at home or in a shared household, to the custody of a person whom child reposes faith.
7. For Immediate aid and assistance on the recommendation of CWC.
8. For being kept away from accused at all times, during trial and otherwise.
9. To have an interpreter or translator, where needed.
10. To have special educator for the child or other specialized person where child is disabled.
11. For Free Legal Aid.
12. For Support Person to be appointed by Child Welfare Committee.
13. To continue with education.
14. To privacy and confidentiality.
15. For list of Important Contact No.'s including that of the District Magistrate and the Superintendent of Police.

(emphasis

supplied)

9. The specific Rules discussed hereinabove, read with 'Form – A', confirm that the availability of services of a support person is not merely directory or suggestive – but a legal *entitlement*. While this framework created by the Rules, in furtherance of supporting victims of child abuse under the POCSO Act, is truly laudatory, it also requires proactive action from the State to shore up infrastructure and train human resources, accordingly – to bridge the gap between this entitlement on paper, and on-ground reality. This court in

*Alarming Rise in the Number of Reported Child Rape Incidents, In re*<sup>6</sup>, recorded that as per the Supreme Court Registrar’s report prepared in November 2019, a support person had been appointed only in 4% of POCSO cases. Much is yet to be done, therefore, for a declaration by this court of the *mandatory* nature of the appointment of support person (subject only to the consent of the child, guardian, or the person in whom the child trusts, as the case may be), to carry any weight. It is necessary that steps are taken to ensure that the POCSO Act and the mechanisms it creates, are functioning and effective.

10. The existing monitoring framework is spelt out in Rule 12, which is extracted below, for the ease of reference:

**“12. Monitoring of implementation of the Act.—**

*(1) The National Commission for the Protection of Child Rights (hereafter referred to as “NCPCR”) or the State Commission for the Protection of Child Rights (hereafter referred to as “SCPCR”), as the case may be, shall in addition to the functions assigned to them under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), perform the following functions for implementation of the provisions of the Act—*

*(a) monitor the designation of Special Courts by State Governments;*

*(b) monitor the appointment of the Special Public Prosecutors by the State Governments;*

*(c) monitor the formulation of the guidelines described in section 39 of the Act by the State Governments, for the use of non-governmental organisations, professionals and experts or persons having knowledge of psychology, social work, physical health, mental health and child development to be associated with the pre-trial and trial stage to assist the child, and to monitor the application of these guidelines;*

*(d) monitor the designing and implementation of modules for training police personnel and other concerned persons, including officers of the Centre and State Governments, for the effective discharge of their functions under the Act;*

*(e) monitor and support the Central Government and State Governments for the dissemination of information relating to the provisions of the Act through media including the television, radio and print media at regular*

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6(2020) 7 SCC 108: Order dated 13.11.2019 in Suo Motu Writ Petition (Crl) No. 1/2019 with Writ Petition (C) No. 819/2019.

*intervals, so as to make the general public, children as well as their parents and guardians aware of the provisions of the Act.*

*(f) call for a report on any specific case of child sexual abuse falling within the jurisdiction of a CWC.*

*(g) collect information and data on its own or from the relevant agencies regarding reported cases of sexual abuse and their disposal under the processes provided under the Act, including information on the following:-*

*(i) number and details of offences reported under the Act;*

*(ii) whether the procedures prescribed under the Act and rules were followed, including those regarding timeframes;*

*(iii) details of arrangements for care and protection of victims of offences under this Act, including arrangements for emergency medical care and medical examination; and,*

*(iv) details regarding assessment of the need for care and protection of a child by the concerned CWC in any specific case;*

*(h) use the information so collected to assess the implementation of the provisions of the Act. The report on monitoring of the Act shall be included in a separate chapter in the annual report of the NCPCR or the SCPCR.*

*(2) The concerned authorities mandated to collect data, under the Act, shall share such data with the Central Government and every State Government, NCPCR and SCPCRs.”*

11. In view of what is required under the POCSO Rules, this court hereby issues the following directions:

In furtherance of the mandate of Section 39 of the POCSO Act<sup>7</sup>, the Principal Secretary to the Department of Women and Child Welfare, in the State of Uttar Pradesh shall convene a meeting within the next six weeks to review the facts, take action, and frame rules/guidelines as necessary, on the following:

- i. Assess capabilities in the state with respect to the support persons ecosystem for the selection, appointment, need for special rules/guidelines/Standard Operating Procedure in regard to their

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<sup>7</sup>“Section 39. Guidelines for child to take assistance of experts, etc.- Subject to such rules as may be made in this behalf, the State Government shall prepare guidelines for use of non-governmental organisations, professionals and experts or persons having knowledge of psychology, social work, physical health, mental health and child development to be associated with the pre-trial and trial stage to assist the child.”

- appointment/empanelment, training, career advancement and terms and conditions of employment;
- ii. To achieve the purpose in (i) above, require the presence of the Chairperson, of the State Commission for the Protection of Child Rights (SCPCR), Secretary, State Legal Service Authority, senior-most President of a JJB and senior-most Chairperson of a CWC in the state, and a representative from the State Commission for Women;
  - iii. Prior to this meeting, details may be called from each District Child Protection Unit (DCPU), as to the list of support persons maintained by it as per Rule 5(1) – which is to include the names of persons or organisations working in the field of child rights or child protection, officials of children’s homes or shelter homes having custody of children, and other eligible persons employed by the DCPU [as prescribed under Rule 5(6)];
  - iv. After due consultations, frame such rules, or guidelines, as are necessary, relating to the educational qualifications and/or training required of a support person [over and above the stipulation in Rule 5(6)], and parameters to identify the *eligible* institutions or NGOs in the state, which can be accredited to depute qualified support persons, and consequently be added to the District Child Protection Unit (DCPU) directory as contemplated in Rule 5(1);
  - v. Ensure that the DCPU or CWC, as the State authorities may deem fit, is tasked with conducting periodic training for all support persons in the DCPU directory to impart knowledge not only on the Act, Rules, and the legal and court procedures involved in prosecuting a POCSO case, but also more fundamentally on communicating and assisting the children of various ages and backgrounds, with the sensitivity it the role demands;
  - vi. In the guidelines framed, ensure that a reporting mechanism through appropriate formats are prepared, to enable the support persons to send monthly reports as per Rule 4(12) to the concerned CWC, which

- should then be compiled and sent to the SCPCR, and the state government;
- vii. Prepare a framework, in the form of a Standard Operating Procedure (SOP) to ensure proper implementation of Rule 12 of the POCSO Rules, 2020, for reporting by the respective CWCs on the specific heads of information collected by them, on monthly basis. This shall include the number of cases, where support persons have been engaged in trials and inquiries throughout the state. The information should also reflect whether they were from the DCPU directory, or with external help from an NGO. Such list shall be reviewed on monthly basis by the SCPCR;
  - viii. The SOP prepared, and guidelines framed, are to be communicated to all JJBs and CWCs within a week of its preparation;
  - ix. Lastly, it is important to acknowledge that support persons who are independent trained professionals, would need to take up tasks which require intensive interactions in often, hostile environments, and consequently deserve to be paid adequate remuneration. Therefore, though the Rules<sup>8</sup> state that such personnel should be paid equivalent to a skilled worker as per the Minimum Wages Act, 1948, this court is of the opinion that the remuneration paid for the duration of the work, should be commensurate to the qualifications and experience of these independent professionals, having regard to the salaries paid to those with comparable qualifications employed by the government, in PSUs, or other institutions run by the government (e.g. hospitals), and this too may be considered in the meeting to be convened by the Principal Secretary.

The *Model Guidelines* (supra) issued by the Ministry of Women and Child Development, Government of India, albeit prepared prior to the amended

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<sup>8</sup>As per the Rules, the support persons listed in the District Child Protection Unit directory are to be remunerated emoluments equivalent to a skilled worker as per the Minimum Wages Act, 1948 from the funds maintained under Section 105 of the Juvenile Justice (Care and Protection of Children) Act, 2015 or from other funds placed at the disposal of the DCPU [ref: Rule 5(7) and (8) of POCSO Rules, 2020].

POCSO Rules, 2020, may offer some assistance in the framing of guidelines as directed above.

12. In crimes against children, it is not only the initiating horror or trauma that is deeply scarring; that is aggravated by the lack of support and handholding in the days that follow. In such crimes, true justice is achieved not merely by nabbing the culprit and bringing him to justice, or the severity of punishment meted out, but the support, care, and security to the victim (or vulnerable witness), as provided by the state and all its authorities in assuring a painless, as less an ordeal an experience as is possible, during the entire process of investigation, and trial. The support and care provided through state institutions and offices is vital during this period. Furthermore, justice can be said to have been approximated only when the victims are brought back to society, made to feel secure, their worth and dignity, restored. Without this, justice is an empty phrase, an illusion. The POCSO Rules 2020, offer an effective framework in this regard, it is now left to the State as the biggest stakeholder in it – to ensure its strict implementation, in letter and spirit.

13. The State of Uttar Pradesh is hereby directed to file a report of compliance of these directions on or before 04.10.2023. The Ministry of Women and Child Development, Government of India, is requested to bring this judgment to the notice of the NCPCR, which in turn is directed to file – in furtherance of its obligation under Rule 12(1)(c) – a consolidated status report outlining the progress of all States in framing of guidelines as prescribed under

Section 39 of the POCSO Act, by 04.10.2023. The Union of India and the NCPCR shall also file an affidavit in this regard before 4.10.2023. A copy of this order shall be marked directly by the Registry to the Union Secretary, Department of Women and Child Development and Chairperson NCPCR, for necessary action.

14. List the writ petition next on 06.10.2023.

.....J.  
[S. RAVINDRA BHAT]

.....J.  
[ARAVIND KUMAR]

**NEW DELHI,  
AUGUST 18, 2023.**

**I**NDIA  
**C**HILD  
**P**ROTECTION

Partner of

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RIGHTS**  
FOR CHILDREN

**access to  
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FOR CHILDREN

**बाल विवाह मुक्त भारत**  
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