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Consensual Teenage Relationships and POCSO: Judicial Trends and the Need for Legislative Reform

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ABSTRACT

The Protection of Children from Sexual Offences Act, 2012 was enacted as a special child-protection statute to address sexual assault, sexual harassment and pornography involving persons below eighteen years. Its protective design, however, has generated a difficult legal problem in cases involving consensual teenage relationships, elopement, near-major adolescents, pregnancy, marriage and family opposition. Since the Act treats all persons below eighteen as legally incapable of consenting, the same statutory framework applies to predatory sexual abuse and to factually consensual adolescent relationships. This paper argues that the central defect is not the protective object of POCSO, but its inability to distinguish exploitation from near-age adolescent intimacy. However there are disagreement like the present law denies adolescent agency, and protection-based concerns, which warn that lowering the age of consent may expose children to grooming and abuse. The Law Commission of India recognised this tension in Report No. 283 but stopped short of recommending a reduction in the age of consent and instead it suggested guided judicial discretion in sentencing for cases involving de facto approval among adolescents aged sixteen to eighteen. This paper examines statutory provisions, judicial trends on bail, quashing and acquittal, limits of judicial leniency, and evidentiary difficulties relating to age and elopement. It concludes that India needs a narrow Romeo-Juliet clause, not a general dilution of POCSO, to prevent over-criminalisation while retaining strong protection against coercion, grooming, abuse of authority, trafficking, pornography and exploitation.

Keywords: POCSO Act, Romeo-Juliet clause, age of consent, adolescent autonomy, teenage relationships, child protection, legislative reform.

I. INTRODUCTION

The Protection of Children from Sexual Offences Act, 2012 was enacted as a special child-

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protection statute to address sexual assault, sexual harassment and pornography against persons below eighteen years.¹ Its protective purpose is not in doubt. The difficulty arises from the Act's undifferentiated treatment of all sexual activity involving a person below eighteen, irrespective of factual consent, emotional maturity, proximity of age, or the social circumstances in which the complaint is filed.² The statutory category of "child" therefore includes both a young child subjected to coercive sexual abuse and a near-major adolescent involved in a voluntary romantic relationship.³ This produces a doctrinal and practical tension between child protection and over-criminalisation of consensual adolescent intimacy.⁴

The problem is not merely theoretical however the Indian courts have repeatedly encountered cases involving elopement, adolescent romance, pregnancy, informal marriage, childbirth, and complaints initiated by parents or institutions rather than by the alleged victim herself.⁵ There are recurring judicial concern that POCSO is sometimes invoked in situations where the prosecutrix describes the relationship as consensual, seeks continuation of the relationship, or asks for closure of proceedings.⁶ It also records judicial use of ideas such as the "grey area" of adolescent sexuality, "de jure" and "de facto" victimhood, and the need to distinguish genuine teenage relationships from predatory sexual exploitation.⁷

The Law Commission of India, in its 283rd Report on the age of consent under POCSO, acknowledged that High Courts had raised concerns about cases involving children aged sixteen to eighteen who engage in consensual sexual activity.⁸ However, the Law Commission did not recommend lowering the age of consent, observing that such a change could weaken existing legal protections against child marriage, trafficking, and sexual exploitation.⁹ This position reflects the unresolved policy gap: the law recognises the risk of injustice in consensual adolescent cases but does not provide a clear statutory solution.

This paper argues that India does not require a general dilution of POCSO. Rather, it requires a

¹ Protection of Children from Sexual Offences Act, No. 32 of 2012, pmbl. (India).

² Id. §§ 3, 7, 11.

³ Id. § 2(d).

⁴ See *X v. State of Maharashtra*, 2021 SCC OnLine Bom 2952.

⁵ See *Harmeet Singh v. State of GNCT Delhi* (minor girl married accused and gave birth; FIR initiated by hospital authorities); *Ashik Ramjan Ansari v. State of Maharashtra* (consensual adolescent relationship involving elopement and pregnancy); *Ashok Dhondiba Kale v. State of Maharashtra* (missing complaint by father later revealed consensual elopement, informal marriage and childbirth); *Prince Kumar Sharma v. State NCT of Delhi* (proceedings arose after institutional intervention rather than complaint by girl).

⁶ *Harmeet Singh v. State of GNCT Delhi*, 2026 SCC OnLine Del 1707 (India).

⁷ Id.

⁸ Law Comm'n of India, Report No. 283, Age of Consent Under the Protection of Children from Sexual Offences Act, 2012, at 1–3, 54–55 (2023).

⁹ *As Law Commission Recommends Against Lowering Age of Consent, Questions on Stigma of Criminalisation Remain*, THE WIRE, <https://thewire.in/law/expert-view-law-commission-lowering-age-of-consent> (last visited May 13, 2026).

narrowly drafted Romeo–Juliet clause or close-in-age exception to separate genuine consensual adolescent relationships from exploitative sexual abuse. The central research gap is the absence of a principled legislative framework to guide police, prosecutors and courts in such cases. In the absence of such reform, courts are compelled to rely on bail, quashing and acquittal as indirect corrective tools, resulting in inconsistent and fact-dependent outcomes.

II. STATUTORY FRAMEWORK: AGE OF CONSENT AND THE STRICT OPERATION OF POCSO

The statutory problem in consensual teenage relationship cases lies in POCSO's use of age as the exclusive marker of incapacity. Section 2(1)(d) defines a child as any person below eighteen years.¹⁰ This definition is protective in cases involving coercion, grooming, trafficking, pornography or abuse of authority, because it prevents accused persons from defeating prosecution by alleging consent.¹¹ However, the same definition becomes over-inclusive when applied without distinction to near-major adolescents involved in voluntary romantic relationships. The statute does not differentiate between a thirteen-year-old child subjected to sexual abuse and a seventeen-year-old adolescent who voluntarily elopes with a near-age partner.

This absence of statutory gradation is central to the present controversy. POCSO does not recognise a category of adolescent consent between sixteen and eighteen. Once minority is proved, the inquiry into willingness, emotional attachment, maturity, proximity of age or continuation of relationship becomes legally secondary.¹² Sections 3 and 4 punish penetrative sexual assault, while Sections 5 and 6 provide aggravated punishment in specified circumstances.¹³ But the operative difficulty is not merely the severity of punishment; it is the prior classification of all sexual activity involving a person below eighteen as criminal, irrespective of factual context.

The strictness of the framework is further intensified by Sections 29 and 30 where section 29 permits the Special Court to presume commission of the offence in prosecutions for specified offences and Section 30 permits a presumption of culpable mental state.¹⁴ These presumptions are justified in genuine abuse cases because child sexual offences are often committed in private and are difficult to prove. Yet in consensual adolescent relationship cases, they may deepen the

¹⁰ Protection of Children from Sexual Offences Act, No. 32 of 2012, § 2(d) (India).

¹¹ See A Decade of Protection of Children from Sexual Offences Act 16–18 (2023).

¹² State of NCT of Delhi v. Deepak, 2026 SCC OnLine Del 2592 (India).

¹³ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 3–6 (India).

¹⁴ Protection of Children from Sexual Offences Act, No. 32 of 2012, §§ 29–30 (India).

imbalance by placing an accused in a serious reverse-burden framework even where the prosecutrix later states that the relationship was voluntary.¹⁵

The Law Commission of India acknowledged this difficulty in its 283rd Report. It recognised judicial concern regarding adolescents aged sixteen to eighteen who engage in consensual sexual activity, but declined to recommend lowering the age of consent because of concerns relating to child marriage, trafficking and sexual exploitation.¹⁶ That caution is understandable. However, the Commission's approach leaves unresolved the central statutory gap: the absence of a close-in-age exception. As a result, courts continue to manage exceptional cases through discretionary tools rather than through a principled legislative standard.

III. THE ROMEO–JULIET CLAUSE: CONCEPT, PURPOSE AND RELEVANCE FOR INDIA

A Romeo–Juliet clause is a narrow close-in-age exception within age-of-consent law. It does not treat adolescent consent as equivalent to adult consent, nor does it reduce the protective purpose of POCSO. Its function is more limited: to prevent genuine consensual relationships between adolescents or near-age young persons from being treated in the same manner as predatory sexual exploitation. The clause therefore works as a proportionality device. It recognises that criminal law must protect children from abuse, but it must also avoid treating all adolescent intimacy as exploitation.

The relevance of this clause in India has increased because courts have repeatedly faced cases involving elopement, adolescent romance, pregnancy, informal marriage, childbirth, and complaints filed by disapproving families. In *State of U.P. v. Anurudh*, the Supreme Court acknowledged that POCSO is a solemn child-protection statute, but also observed that misuse or misapplication of the law may defeat justice. The Court directed that the judgment be circulated to the Secretary, Law, Government of India, for considering measures including a Romeo–Juliet clause to exempt genuine adolescent relationships from the harsh operation of POCSO.¹⁷

This does not mean that India should simply lower the age of consent. The Law Commission of India, in Report No. 283, considered concerns relating to adolescents aged sixteen to eighteen involved in consensual sexual activity, but declined to recommend lowering the age of consent

¹⁵ *POCSO Act Misused In Cases Involving Teenage Romance: Allahabad High Court*, WWW.NDTV.COM, <https://www.ndtv.com/india-news/pocso-act-misused-in-cases-involving-teenage-romance-allahabad-high-court-6043513> (last visited May 13, 2026).

¹⁶ Law Comm'n of India, Report No. 283, Age of Consent Under the Protection of Children from Sexual Offences Act, 2012, at 1–3, 54–59 (2023).

¹⁷ *State of U.P. v. Anurudh*, 2026 SCC OnLine SC 40 (India); Sucheta, Victim's Age Determination; "Romeo-Juliet Clause" to Curb Misuse: Inside Supreme Court's Important Judgment on POCSO Act, [SCC Times](#) (Jan. 12, 2026). ([scconline.com](https://www.scconline.com))

because of risks connected with child marriage, trafficking and sexual exploitation.¹⁸ The more precise issue is whether POCSO should contain a narrow exception for close-in-age relationships that do not involve exploitation.

Such a clause must therefore be carefully limited. It may apply only where the younger person is above a defined minimum age, preferably sixteen, the age difference is small, and the relationship is voluntary. It must exclude force, fraud, coercion, intoxication, grooming, pornography, blackmail, trafficking, incest, commercial exploitation, and relationships involving authority, trust or dependency.

IV. JUDICIAL TRENDS IN CONSENSUAL TEENAGE RELATIONSHIP CASES UNDER POCSO

Indian courts have not developed a uniform doctrine for consensual teenage relationship cases under POCSO. The judgments instead reveal a fragmented pattern in which courts attempt to reconcile the statute's strict age-based command with facts involving adolescent romance, elopement, pregnancy, marriage or childbirth. The important point is not that courts have recognised minor consent as a legal defence. They have not. Rather, courts have treated factual consent, proximity of age, continuation of relationship and the prosecutrix's own wishes as relevant while deciding bail, quashing, credibility, proportionality and the likelihood of conviction.

Indian courts have increasingly recognised the difficulty of applying the rigid framework of the Protection of Children from Sexual Offences Act to consensual adolescent relationships. A noticeable judicial trend is the recognition of the "gray area" of teenage sexuality, particularly in cases involving near-major adolescents engaged in voluntary romantic relationships. In *Ashik Ramjan Ansari v. State of Maharashtra*, the Bombay High Court considered a case involving a girl aged approximately seventeen years and five months who had voluntarily accompanied the accused and lived with him as his wife across different states. The Court ultimately set aside the conviction, observing that the prosecutrix was on the "threshold of maturity" and sufficiently capable of understanding the consequences of her conduct. The decision is significant because it acknowledged that a purely mechanical application of the age standard under POCSO may result in the criminalisation of consensual adolescent relationships rather than advancing the protective purpose of the statute.¹⁹

¹⁸ Law Comm'n of India, Report No. 283, Age of Consent Under the Protection of Children from Sexual Offences Act, 2012, at 1–3, 54–59 (2023).

¹⁹ *Ashik Ramjan Ansari v. State of Maharashtra*, 2023 SCC OnLine Bom 1390.

A second judicial trend concerns the distinction between statutory victimhood and actual injury. In *Harmeet Singh v. State of GNCT Delhi*, the Delhi High Court dealt with a case in which criminal proceedings were initiated after hospital authorities reported the birth of a child to a minor mother. The Court quashed the proceedings in light of the continuing marital relationship between the parties and the welfare of the child born from the union. Importantly, the Court drew a distinction between a “de jure victim” created by the statute and a “de facto victim” who genuinely alleges harm or exploitation. It observed that continuing criminal prosecution in such circumstances would amount to an “exercise in futility” leading to “revictimization” and “manifest injustice.” The judgment therefore reflects a growing judicial concern that the rigid operation of statutory provisions should not undermine the lived realities of adolescent relationships and young families.²⁰

A third trend is visible in bail jurisprudence, where courts increasingly consider proportionality and real-life consequences while deciding applications involving consensual adolescent relationships. In *Ajay Kumar v. State Govt. of NCT of Delhi*, the court granted bail after observing that disregarding the victim’s voluntary marriage and continuing incarceration would amount to a “perversity of justice.” The Court emphasised that the object of the law is to protect children from sexual exploitation rather than criminalise adolescent romance.²¹ Similarly, in *Bijender Mehto v. GNCT of Delhi*, the court characterised the case as one involving “juvenile romance” and took note of the fact that the prosecutrix, after attaining majority, sought to stand surety for the accused. These decisions demonstrate that although the statutory command of POCSO remains stringent, courts increasingly rely upon equitable and practical considerations to ensure that the law does not become an instrument of destruction for consensual young relationships and emerging families.²²

The fourth trend concerns the quashing of proceedings where the continuation of prosecution would produce further harm to the alleged victim. In *Ashok Dhondiba Kale v. State of Maharashtra*, where a girl had eloped at age 15, married, and had a child, the Court quashed the FIR noting that the chances of conviction were bleak and prosecution would only disturb the matrimonial life already formed.²³ Similarly, in *Ranjeet Kumar v. State of Himachal Pradesh*, the Court adopted a pragmatic approach for cases of teen romance, holding that where a stable family unit has been established, prosecution fails to promote the victim's welfare and

²⁰ *Harmeet Singh v. State of GNCT Delhi*, 2026 SCC OnLine Del 1707.

²¹ *Ajay Kumar v. State Govt. of NCT of Delhi*, 2022 SCC OnLine Del 3945.

²² *Bijender Mehto v. GNCT of Delhi*, 2022 SCC OnLine Del 2752.

²³ *Ashok Dhondiba Kale v. State of Maharashtra*, 2018 SCC OnLine Bom 1826.

instead results in manifest injustice.²⁴

These trends reveal a deeper structural problem: the lack of a formal "Romeo-Juliet exception" in the POCSO Act. In its absence, courts reach equitable results indirectly through bail, quashing, and welfare reasoning, leading to a "jurisprudence of discretion" rather than principle. This creates significant inconsistency: while one court may quash proceedings to preserve a young family, as seen in *Harmeet Singh v. State of GNCT Delhi*, another may refuse quashing as in *Prince Kumar Sharma v. The State NCT of Delhi* on the grounds that subsequent marriage cannot "retrospectively legalize" a statutory offense. Consequently, the outcome often depends on whether a particular bench prioritizes the strict command of the statute or the pull of equity.

The critical finding is that judicial trends do not prove that POCSO should be weakened. They prove that the statute lacks a calibrated mechanism for near-age consensual adolescent relationships. The repeated use of bail and quashing as corrective tools shows that courts are attempting to soften statutory harshness case by case. A narrowly drafted Romeo–Juliet clause would convert this scattered judicial improvisation into a clearer legislative standard, while leaving intact strict liability for coercive, exploitative and authority-based sexual offences.

V. LIMITS OF JUDICIAL LENIENCY: AGE, COERCION, ELOPEMENT AND EVIDENTIARY PROOF

Judicial sensitivity in consensual teenage relationship cases cannot be converted into a general relaxation of POCSO. The central task is one of classification: courts must separate genuine voluntary near-age adolescent relationships from cases of sexual exploitation. A Romeo–Juliet approach is defensible only if it is both substantively limited and evidentially controlled. Your attached notes show this distinction clearly: courts have granted relief in some teen-romance cases, but have refused leniency where the facts disclose young age, coercion, denial of consent, authority or unreliable proof.²⁵

The first limit is age-based vulnerability. In cases involving very young victims, the language of romance becomes legally weak because the child may not possess the capacity to understand, resist or negotiate sexual conduct. In *Amit Gupta v. State of Chhattisgarh*, the victim was around thirteen years old and was taken to a guest house where sexual relations occurred. The court treated minority as legally decisive. Similarly, in *Rajnish v. State NCT of Delhi*, the prosecutrix was around fourteen and became pregnant; the court treated the age gap and the accused's

²⁴ *Ranjeet Kumar v. State of Himachal Pradesh*, 2023 SCC OnLine HP 1625.

²⁵ *State of U.P. v. Anurudh*, 2026 SCC OnLine SC 40 (India); Law Comm'n of India, Report No. 283, *Age of Consent Under the Protection of Children from Sexual Offences Act, 2012*, at 54–59 (2023).

maturity as increasing the risk of manipulation.²⁶ These cases show that a close-in-age exception cannot rest merely on an accused's claim of affection; it must begin from a minimum age threshold.

The second limit is coercion and exploitation. In *Nannu Dhanak v. State of Madhya Pradesh*, the facts involved forcible taking and repeated sexual assault. In *Sonu Kumar Gupta v. State of Bihar*, the attached notes record luring, intoxication, confinement and repeated rape.²⁷ These cases mark the outer boundary of reform. Where force, deception, intoxication, confinement or repeated assault is present, the language of consensual teenage intimacy becomes legally unreliable.

The third limit is express denial of consent and authority-based abuse. In *Paras Sharma v. State of Himachal Pradesh*, anticipatory bail was refused where the victim's version indicated resistance and absence of consent. Prior familiarity or communication cannot neutralise a specific allegation of non-consensual sexual conduct. Likewise, in *Ramji Lal Bairwa v. State of Rajasthan*, the Supreme Court refused to allow quashing of POCSO proceedings involving a teacher-student context.²⁸ Authority relationships are structurally different from adolescent romance because power may distort apparent consent.

Finally, evidentiary proof must control any leniency. *Jarnail Singh v. State of Haryana* gives priority to recognised documentary evidence for age determination, while *Alamelu v. State* cautions against mechanically accepting school records without foundational proof. *S. Varadarajan v. State of Madras* distinguishes "taking" from voluntary accompaniment, but *Manish Gupta v. State of West Bengal* shows that voluntary elopement does not automatically defeat POCSO where minority is proved.²⁹ Therefore, a Romeo-Juliet clause must include only voluntary near-age cases and exclude young age, coercion, authority, denial of consent and unreliable proof.

VI. CONCLUSION

POCSO's strict child-protection framework remains indispensable, but its application to consensual teenage relationship cases exposes a serious problem of over-inclusion. The central

²⁶ *Amit Gupta v. State of Chhattisgarh*, 2024 SCC OnLine Chh 4933 (India); *Rajnish v. State NCT of Delhi*, 2024 SCC OnLine Del 7491.

²⁷ *Nannu Dhanak v. State of Madhya Pradesh*, 2025 SCC OnLine MP 1936 (India); *Sonu Kumar Gupta v. State of Bihar*, 2025 SCC OnLine Pat 3184.

²⁸ *Paras Sharma v. State of Himachal Pradesh*, 2024 SCC OnLine HP 4375 (India); *Ramji Lal Bairwa v. State of Rajasthan*, 2024 SCC OnLine SC 2965.

²⁹ *Jarnail Singh v. State of Haryana*, (2013) 7 SCC 263 (India); *Alamelu v. State*, (2011) 2 SCC 385 (India); *S. Varadarajan v. State of Madras*, (1965) 1 SCR 243 (India); *Manish Gupta v. State of West Bengal*, 2025 SCC OnLine Cal 2123.

difficulty is that the Act treats all persons below eighteen as one uniform category, thereby placing predatory sexual abuse and voluntary near-age adolescent relationships within the same criminal framework. This becomes particularly problematic in cases involving near-major adolescents, elopement, pregnancy, informal marriage, childbirth or family opposition.

The findings from the paper suggests POCSO must continue to operate strictly where the facts involve coercion, grooming, trafficking, pornography, abuse of authority, intoxication, confinement, denial of consent or exploitation. Secondly, judicial responses show that courts are already trying to distinguish adolescent romance from sexual abuse through bail, quashing, acquittal and welfare-based reasoning, but these methods remain inconsistent and depend heavily on the facts and the court's discretion. Thirdly, a general lowering of the age of consent is not the correct solution, because it may weaken protection against child marriage, grooming and trafficking. The better approach is a narrow Romeo–Juliet clause limited to genuine close-in-age adolescent relationships.

Such a clause should apply only where the younger person is above sixteen, the age gap is minimal, and the relationship is voluntary. It must expressly exclude force, fraud, coercion, intoxication, grooming, pornography, blackmail, trafficking, incest, commercial exploitation and relationships involving authority, trust or dependency. Safeguards such as magistrate-recorded statements, child welfare assessment in doubtful cases, and clear police-prosecutorial guidelines are necessary to prevent misuse. Properly drafted, the clause would not dilute POCSO; it would make child protection more precise, proportionate and legally principled by reserving the harshest criminal consequences for exploitation rather than genuine consensual adolescent relationships.
