

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.A. No. 549 of 2022

Deepak Sahu S/o Teejaram Sahu Aged About 21 Years Through- Police Station,
Takhatpur District- Bilaspur (C.G.)

---- **Appellant**
(In Jail)

Versus

State Of Chhattisgarh Through- Police Station Takhatpur District- Bilaspur (C.G.)

---**Respondent**

21.10.2022	Shri Karan Kumar Baharani, counsel for the appellant. Ms. Abhiyunnati Singh, P.L. for the State/respondent. Heard on I.A.N0.01/2022, an application for suspension of sentence and grant of bail to the appellant. By the impugned judgment dated 13/07/2021 passed by the learned Additional Sessions Judge, F.T.C. (POCSO), District- Bilaspur (C.G.) in Special Session Trial No. 60/2017 by which the appellant stands convicted, as under:- <table><tr><th>Offences</th><th>Sentence</th></tr><tr><td>U/s. 363 of the I.P.C.</td><td>R.I. for 5 years with fine of Rs. 200/- in default of payment of fine further R.I. for 6 months.</td></tr><tr><td>U/s. 366(K) of the I.P.C.</td><td>R.I. for 5 years with fine of Rs. 200/- in default of payment of fine further R.I. for 6 months.</td></tr><tr><td>U/s. 5(L)/06 of POCSO R/W/ u/s. 376(2) (N) of I.P.C.</td><td>R.I. for 10 years with fine of Rs. 500/- in default of payment of fine further R.I. for 01 years.</td></tr></table> Learned counsel for the appellant would draw attention of this court to the statement of the victim P.W.-1 wherein the she has stated that she was carried by the accused in a Motor Cycle from Takhatpur to Shahdol which is 200 KM from Takhatpur and she has not raised any alarm during the journey	Offences	Sentence	U/s. 363 of the I.P.C.	R.I. for 5 years with fine of Rs. 200/- in default of payment of fine further R.I. for 6 months.	U/s. 366(K) of the I.P.C.	R.I. for 5 years with fine of Rs. 200/- in default of payment of fine further R.I. for 6 months.	U/s. 5(L)/06 of POCSO R/W/ u/s. 376(2) (N) of I.P.C.	R.I. for 10 years with fine of Rs. 500/- in default of payment of fine further R.I. for 01 years.
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from Takhatpur to Shahdol and even in the evidence in her cross-examined she was stated that she knew the accused from childhood as he residing nearby her house. In the cross examination she has further stated that she was kept in a room for one month but she had not stated before the trial court that she has made any attempt to escape from the custody of the accused, therefore, the appellant may be released on bail.

On the other hand learned counsel state vehemently opposes the bail application and would submit that the victim is a minor, therefore any consent given by her cannot be terms as legally consent for sexual intercourse. Learned counsel for the State would further submit that prosecution has prove the case of the appellant within the four corners of law, therefore, the punishment awarded to the appellant is justified. Hence, the bail application filed by the appellant may be rejected.

I have heard counsel for the parties and perused the record of the court below.

Considering the submission and fact of the case, particularly the evidence of the victim and appellant is in jail for 3 years and 6 months, I am inclined to suspend the sentence of the appellant and release him on bail.

I.A. No.01/2022 is allowed.

Accordingly, application for suspension of sentence and grant of bail is **allowed** and it is directed that execution of further substantive jail sentence of the appellant shall remain suspended and he shall be released on bail on her executing a personal bond in sum of **Rs. 25,000/-** with one surety in the like sum to the satisfaction of trial Court for her appearance before the Registry of this Court on **13th December, 2022**. He shall thereafter appear before the trial Court on a date to be given by the Registry of this Court and shall continue to appear there on all such subsequent dates as are given to him by the said court till the disposal of this appeal.

Sd/-
(Narendra Kumar Vyas)
Judge

