



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 781 of 2025

Vijay Dubey S/o Late Durgaprasad Dubey Aged About 54 Years R/o Ward No. 1, Amapara Rajim, Ps Rajim, District Gariyaband Chhattisgarh

... Appellant**versus**

State Of Chhattisgarh Through Police Station Rajim, District Gariyaband Chhattisgarh

... Respondent

(Cause title taken from Case Information System)

Order sheet

<u>15/04/2026</u>	Mr. Subhank Tiwari, learned counsel for the appellant. Mr. Shailendra Sharma, Panel Lawyer for the respondent/State. Heard on I.A. No.1 of 2025 (application under Section

430 of BNSS for suspension of sentence and grant of bail).

The appellant has been convicted and sentenced by the Judgment of Conviction and Order of Sentence dated 07.03.2025, passed in POCSO Case No. 20/2023 by the learned Additional Sessions Judge, Fast Track Special Court (POCSO & Rape Cases), Gariyaband, District Gariyaband (C.G.), whereby the appellant has been convicted for the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, in the following manner:-

Conviction	Sentence
U/s. 6 of Protection of Children From Sexual Offences Act, 2012	Rigorous Imprisonment for 20 years with a fine of Rs. 5,000/-, and in default of payment of fine, further Rigorous Imprisonment for 01 month.

Learned counsel for the appellant would submit that the present case is a clear case of false implication and the learned trial Court has erred in convicting the appellant without proper appreciation of evidence available on record. It is contended that from the deposition of the victim before the trial Court, it is apparent that the appellant, father of the

victim and her brother used to consume liquor together, to which the mother of the victim had repeatedly objected. It is further submitted that the appellant had permitted them to consume liquor at his house, which led to strained relations, and due to such circumstances, the present false case has been instituted. The victim herself has admitted that the FIR was lodged at the instance of her mother. Though serious allegations of rape have been levelled, there is no cogent or objective medical evidence to substantiate the same, thereby creating serious doubt on the prosecution story.

It is further argued that the appellant was on bail during the entire course of trial and had never misused the liberty granted to him, however, after conviction he has been taken into custody. The learned trial Court has failed to consider material contradictions and omissions in the prosecution case and has recorded conviction on conjectures. The appellant has already undergone incarceration for about 1 year and 6 months, and the appeal is not likely to be heard in near future. The appellant is aged about 55 years and is suffering from serious vision impairment, having lost vision in one eye and facing difficulty

in the other, due to which he is unable to perform normal day-to-day activities without assistance. He is thus suffering both physically and mentally due to prolonged incarceration. There is no likelihood of the appellant absconding or tampering with the prosecution evidence, as the entire evidence already stands concluded. Therefore, it is prayed that this Hon'ble Court may kindly be pleased to suspend the sentence imposed upon the appellant and enlarge him on bail during pendency of the appeal, in the interest of justice.

Learned State counsel would submit that the appellant has been rightly convicted for committing a grave and heinous offence upon a minor girl and no case for suspension of sentence is made out. It is contended that the victim was a minor aged about 15 years, 6 months and 8 days at the time of the incident, which stands duly proved from the documentary evidence available on record. From the statements recorded before the trial Court, it does not go to show that the victim was in any affair with the appellant; rather, the prosecution evidence clearly establishes that the appellant forcefully dragged the victim into his house and committed rape upon her. The victim has categorically

supported the prosecution case in her deposition. It is further submitted that the medical examination reveals that the hymen of the victim was found ruptured. Apart from this, the brother of the victim has also deposed before the trial Court that he had seen the victim coming from the house of the appellant, thereby lending corroboration to the prosecution version.

Learned State counsel would further submit that the conviction is based upon cogent and reliable evidence and the learned trial Court has passed a well-reasoned judgment which does not call for any interference by this Hon'ble Court. Considering the gravity of the offence and the fact that the victim is a minor, no indulgence deserves to be shown to the appellant. It is also submitted that the plea regarding the appellant's alleged medical condition requires verification. In view of the strength of the prosecution case and the seriousness of the offence, there is every likelihood of dismissal of the appeal; therefore, the application for suspension of sentence and grant of bail deserves to be rejected.

Upon due consideration of the submissions advanced by learned counsel for the parties and on perusal of the record, this Court finds that the appellant has been convicted for a serious and heinous offence under Section 6 of the Protection of Children from Sexual Offences Act, 2012, involving a minor victim, whose age stands duly proved from the documentary evidence on record. The testimony of the victim, which has been found to be cogent and reliable by the learned trial Court, is duly corroborated by the statement of her brother as well as the medical evidence indicating rupture of hymen. At this stage, this Court does not find any apparent perversity or material illegality in the findings recorded by the trial Court warranting suspension of sentence. The submissions regarding false implication and contradictions in the prosecution case require detailed re-appreciation of evidence, which is not permissible at this interlocutory stage.

So far as the plea relating to the medical condition of the appellant is concerned, particularly the alleged serious impairment of vision, it is significant to note that no document has been filed on behalf of the appellant in

support of such contention. In absence of any medical material on record, the said ground cannot be accepted. Considering the gravity of the offence, the nature of evidence available on record, and the fact that the victim is a minor, this Court is not inclined to suspend the sentence imposed upon the appellant. Accordingly, I.A. No.1 of 2025 stands rejected.

Let the appeal be listed for final hearing after six months.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice