

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr A No. 932 of 2019Rajkumar @ Raja Dewangan **Versus** State Of Chhattisgarh

26/03/2021	Shri Rahil Arun Kochar, counsel for the appellant. Shri Ravish Verma, GA for the State. Heard on IA No.2/2020 for suspension of sentence and grant of bail to the appellant. The appellant has been convicted for commission of offence under Section 376(2), 363 and 366 of the IPC and sentenced to undergo RI for 10 years and RI for 6 months, respectively vide impugned judgment dated 25.5.2019 passed by the Court of Special Judge, Durg constituted under the POCSO Act/Children Court in Special Sessions Case No.61/2017. This is the 2nd bail application for suspension of sentence and grant of bail to the appellant. The first bail application was dismissed as withdrawn on 23.7.2019. The appellant abducted the prosecutrix (PW-1) and took her to Dongergarh and thereafter to Gondia (Maharashtra) and returned to Dongergarh on the next day. As per the evidence of the

prosecutrix (PW-1), they performed marriage at a temple at Dongergarh. During this period of 2 days, the appellant committed forcible sexual intercourse with the prosecutrix. During cross-examination, the prosecutrix states that she was in love with the appellant and had accompanied him of her own free will and had also consented for sexual relations.

The date of birth of the prosecutrix is 7.7.1999 and the incident occurred on 12.1.2016. Thus on the date of the incident, the prosecutrix was aged about 17 years & 3 months. It is also to be seen that the appellant himself was aged about 16 years & 8 months and thus he happens to be younger to the prosecutrix.

Although technically the prosecutrix being less than 18 years of age had not attained the age of majority and was unable to give consent either for marriage or for sexual relations, but considering that she was nearing the age of 18 years being more than 17 years & 3 months and she admit of having an affair with the appellant, as also for the reason that the appellant is in jail since 14.11.2016 to 7.12.2016 and thereafter from the date of impugned judgment i.e. 25.5.2019 till date, we are inclined to suspend the sentence imposed on the appellant and release him on bail.

Accordingly, the application is allowed.

Execution of the sentence imposed on appellant namely, **Rajkumar @ Raja Dewangan**

Barve	shall remain suspended and he is directed to be released on bail on his executing a personal bond for a sum of Rs.50,000/- with one surety for the like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on <u>12th May, 2021</u>. 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/- (Prashant Kumar Mishra) Judge Sd/- (Gautam Chourdiya) Judge
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