

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 1092 of 2022

1 - Sagar Nishad S/o Late Somnath Nishad, Aged About 40 Years R/o Ramnagar, Shitlapara Ward No. 18, Gali No. 4, Raipur, Police Station Gudhiyari, District : Raipur, Chhattisgarh

---- Appellant

Versus

1 - State Of Chhattisgarh Through Station House Officer, Police Of Police Station Durg, District : Durg, Chhattisgarh

---- Respondent

09/10/2023	Ms. Shivali Dubey, counsel for the appellant/s. Shri Amit Chauhan, Panel Lawyer for the State. Heard on I.A.No.1/2022, application for suspension of sentence and grant of bail. The appellant has been convicted under the impugned judgment of conviction and order of sentence dated 18/05/2022 passed by the Additional Sessions Judge, Fourth FTSC, Durg, Chhattisgarh in Special Sessions case (POCSO) No.36/2019. Case of the prosecution is that complainant lodged an oral report in the police station on 11/01/2019 that his cousin sister (aged about 15 years) is missing from her house. Thereafter, during investigation, on 06/02/2019, the victim was found in her parental house. Learned counsel for the appellant submits that the finding recorded by the learned Court below with regard to the age of the victim is perverse and contrary to the evidence. The age of the victim has not been proved in accordance with law therefore, it cannot be said that she was minor at the time of incident. He further submits that the statement of the victim does not inspire confidence and there are material contradictions and omissions in the statement of the victim. It

is also submitted that the appellant is in jail 07/02/2019, he has already served jail sentence of 4 years 10 months 2 days and the appeal is not likely to be heard early, therefore, it is prayed that the application may be allowed.

Learned State counsel opposes the application.

Taking into consideration the facts and circumstances of the case, totality of the circumstances, evidence available on record, detention period and the appellant is in jail since 07/02/2019, I am inclined to allow the application.

Accordingly, I.A.No.1/2022 is allowed. The substantive jail sentence awarded to the appellant is suspended and he is directed to be released on bail on his furnishing a personal bond in the sum of Rs.10,000/- along with one surety for the like amount to the satisfaction of the concerned trial Court for his appearance before the Registry of this Court on **08/12/2023**. 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 further dates as are given to him by the said Court during the pendency of this appeal.

The appellant shall not meet or contact with the victim or her family members failing which it would lead to cancellation of bail.

Certified copy as per rules.

Sd/-
(Sachin Singh Rajput)
Judge