

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 876 of 2015

Sunil Kumar Singh, S/o Vijay Kumar Bargah, aged about 25 years, R/o Gram Junadih, P.S. Lakhanpur, District Sarguja, Chhattisgarh.

---- Appellant (in Jail)

Versus

State Of Chhattisgarh through District Magistrate Sarguja, Chhattisgarh.

---- Respondent

03/02/2017	Shri Arvind Singh, Advocate for the appellant. Shri Arvind Dubey, Panel Lawyer for the State/ respondent. Heard on I.A. No. 1 of 2015, an application for suspension of sentence and grant of bail to the Appellant. By the impugned judgment dated 14.5.2015 passed by the learned Special Sessions Judge (POCSO Act, 2012), Sarguja, district Sarguja, Chhattisgarh in Sessions Trial No. 30 of 2014, the appellant stands convicted under Sections 450 and 376 of the Indian Penal Code and sentenced to undergo SI for 10 years and imprisonment for life and Section 4 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo life imprisonment and to pay fine of Rs.1,000/-, in default of payment of fine, to further undergo RI for one month on each count, respectively with a direction to run the sentences concurrently. Learned counsel for the appellant submits that there is no legally admissible evidence showing the prosecutrix to be less	

than 18 years of age. He further submits that from the statement of the prosecutrix it is quite apparent that she is a consenting party and she allowed the appellant to have physical relation with her. It has been argued that the prosecutrix has not offered any protest till the completion of the offence and she raised her cries only after her brother woke up, who was sleeping nearby. It has been further argued that the appellant is in jail since 13.4.2014, the appeal is likely to take much time for final disposal and therefore, he be released on bail.

On the other hand, Learned counsel for the State has opposed the application.

Considering the totality in the case, the statement of the prosecutrix and the evidence related to her age, without further commenting anything on its merits, we are inclined to release the appellant on bail.

Accordingly, the bail application is allowed.

It is directed that the jail sentence imposed upon appellant shall remain suspended during the pendency of this appeal; and he shall be released on bail on furnishing a personal bond in the sum of Rs.10,000/- with one surety in like sum to the satisfaction of the trial Court. The appellant need not give appearance anywhere until and unless otherwise directed.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(R.C.S. Samant)
Judge