



HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1534 of 2023

Janak Thakur S/o Shri Biseram Thakur, Aged About 23 Years R/o
Village Lenjvara, P.S. Berla, District : Bemetara, Chhattisgarh.

... Appellant

versus

State of Chhattisgarh through the Police Station Berla, District :
Bemetara, Chhattisgarh.

... Respondent

Order Sheet

21/02/2025	By the impugned judgment of conviction and order of sentence dated 27.07.2023 passed in Session Case No. 09/2023, the learned Additional Sessions Judge F.T.S.C. (POCSO), Bemetara, District- Bemetara, C.G, has convicted and sentenced the appellant in the following manner:

RAHUL
DEWANGAN

Digitally
signed by
RAHUL
DEWANGAN

Conviction under Section	Sentence (Rigorous imprisonment)	Fine	In default of payment of fine add. R.I.
Section 450 of the IPC	10 years	Rs. 1000/-	02 months
Section 376(2)(n) of the IPC	10 years	Rs. 1,000/-	02 months
Section 506 Part-II of the IPC	01 year	Rs.500/-	02 months
Heard Ms. Palak Dwivedi, learned counsel for the appellant and Ms. Monika Thakur, learned Panel Lawyer, appearing for the State/respondent on the instant application for suspension of sentence and grant of bail (I.A. No. 01 of 2023). Learned counsel for the convict/appellant has argued that the appellant has been falsely implicated in the present case and there is no evidence on record to connect the appellant with commission of the offence. It is further argued by the learned counsel for the appellant that as per the prosecution case, the age of the victim was 16 years 10 months at the time of incident, but there			

is no authentic documentary proof was filed in order to show that the victim is a minor girl. Hence, the prosecution of the applicant under the POCSO Act was dropped, though the FIR was lodged for the said offence and charges were framed against the appellant under Sections 376(2)(n) and 450 of the IPC. He further submits that it is a case of elopement and not of taking away, enticing or abduction. He also submits that the victim was a consenting party and she had established sexual relationship with the appellant and no injury was found over the body of the victim. He relies upon the judgment passed by the Hon'ble Supreme Court in the matter of ***Tilku Alia Tilak Singh vs. The State of Uttarakhand (Criminal Appeal No. 183 of 2014)*** decided on 06.02.2025 wherein, the Hon'ble Apex Court has followed with approval of the judgment of ***S. Vardarajan vs. State of Madras 1964 SCC OnLine SC 36*** and has held that when the prosecutrix age is between 16 to 18 years and she has voluntarily eloped with the appellant showing that she was a consenting party thereupon, the suspension of sentence and bail

application of the appellant shall be allowed. He further argued that as per the statement of the victim/girl recorded before the trial Court, it is evident that the appellant and the victim were known to each other and were in a relationship. The victim had maintained a simple relationship with the appellant from December 2022 to 2023. Furthermore, the MLC report and FSL report are said to be negative, and the appellant is languishing in jail since 18.02.2023. Further the appeal is likely to take a couple of years or even more in its final disposal and if the bail is not granted to the appellant, the present appeal would become infructuous.

Learned counsel for the appellant relied upon the judgment passed by the Hon'ble Apex Court in the matters of ***Atul Alias Ashutosh vs. State of Madhya Pradesh (2024) 3 SCC 663*** and ***Nanhe Lal Verma vs. State of Madhya Pradesh (Arising out of SLP (Criminal) No. 14769 of 2024)*** decided on 25.11.2024 wherein, the Hon'ble Apex Court has held that when there is a fixed term sentence and especially when the appeal is not likely to be heard before completing entire period of

sentence, normally suspension of sentence and bail should be granted.

However, Ms. Monika Thakur, learned Panel Lawyer, appearing for the State opposes the prayer for grant of bail.

I have heard learned counsel for the parties and perused the bail application.

Considering the submissions advanced by the learned counsel for the parties, relying upon the judgment passed by the Hon'ble Apex Court in the matter of ***Atul Alias Ashutosh (Supra) and Nanhe Lal Verma (Supra)***, also considering the evidence available on record and the fact that the victim was aged about 16 years 10 months at the time of incident, but no authentic documentary proof was filed in order to show that the victim is a minor girl and eloped on her own will and was a consenting party as such relying upon the judgment passed by the Hon'ble Apex Court in the matter of ***Tilku Alia Tilak Singh (supra)*** and the fact that appellant is in jail since 18.02.2023 and further hearing of this appeal

would take prolonged period of time and if the benefit of bail is not granted to the appellant, the present appeal would become infructuous, as such, this Court deems it appropriate to allow the application for suspension of sentence and grant of bail moved on behalf of the appellant.

Accordingly, the substantive jail sentence awarded to appellant- **Janak Thakur** by the learned trial Court is hereby suspended. He shall be released on bail on his executing bail bond with two sureties to the satisfaction of the concerned trial Court for his appearance before the Registry of this Court on **16.04.2025**. He shall thereafter, appear before the concerned 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, interval being not less than 06 months, till final disposal of this appeal.

Consequently, IA No. 01 of 2023 filed is allowed.

It is made clear that the observations made hereinabove are only confined for disposal of aforesaid

IA filed in this appeal and it shall not be construed as an expression of opinion of this Court on merits of the matter.

List this matter for final hearing.

Certified copy, as per rules.

Sd/-

(Ramesh Sinha)
Chief Justice