

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1191 of 2021

Tekram Rajak S/o Late Chhoturam Rajak Aged About 31 Years R/o Chhitapar, Police Station And District - Bemetara (Chhattisgarh), District : Bemetara, Chhattisgarh

---- Appellant

Versus

State Of Chhattisgarh The Station House Officer, Police Station - Bemetara, District - Bemetara (Chhattisgarh), District : Bemetara, Chhattisgarh

---- Respondent

20/06/2023	Shri Arpit Agrawal, Advocate for the appellant. Shri Arjit Tiwari, Panel Lawyer for the State/respondent. Heard on I.A. No.1/2021, application under Section 389 of Cr.P.C. for suspension of sentence and grant of bail. Vide impugned judgment dated 31-08-2021 passed by the Fast Tract Special Court (Protection of Children from Sexual Offences Act) Bemetara Dist: Bemetara (C.G.) in Special Case No.10/2020, the appellant has been convicted and sentenced as under:- <table><tr><th>Sr. No.</th><th>Section</th><th>Act</th><th>Jail sentence</th><th>Fine sentence</th><th>Default</th></tr><tr><td>1.</td><td>376 DA</td><td>IPC</td><td>For life imprisonment till natural death</td><td>5000/-</td><td>R.I. for 3 years.</td></tr><tr><td>2.</td><td>Section 3 and 4</td><td>POCSO</td><td>For life imprisonment</td><td>5000/-</td><td>R.I. for 3 years.</td></tr></table> Both the sentences have been directed to run concurrently. Learned counsel for the appellant submits that the date of birth of the prosecutrix is not certain as both mother and father not knowing the exact date and how it was entered in the school register, there is no authentic proof about it. He further submits that the ossification test was directed by the Doctor, but it was not carried out. Hence, the benefit of doubt should have been given to the appellant and the appellant may be granted bail.					Sr. No.	Section	Act	Jail sentence	Fine sentence	Default	1.	376 DA	IPC	For life imprisonment till natural death	5000/-	R.I. for 3 years.	2.	Section 3 and 4	POCSO	For life imprisonment	5000/-	R.I. for 3 years.
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Per contra, learned counsel for the State opposes the submission made by counsel for the appellant. He further submits that categorically the date of birth of prosecutrix is 09-07-2004 has been proved and according to the statement of the mother that the birth of the child was in the year 2004 and the date of incident is 28-12-2009, whereby the age of victim would be less than 18 years. Hence, the appellant may not be enlarged on bail.

Considering the submissions made by learned counsel for both the parties, we are not inclined to allow the application for suspension of sentence and grant of bail to the appellant.

Accordingly, I.A. No.1/2021 is dismissed.

List the case for final hearing.

SD/-
(Goutam Bhaduri)
Judge

SD/-
(Sanjay Kumar Jaiswal)
Judge