

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 1143 of 2016

Laxmiprasad @ Odi S/o Late Chainsingh Basod Aged About 20 Years R/o Village- Saraipali, Police Station- Kotraroad, District Raigarh, Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh Through District Magistrate, Raigarh, District Raigarh, Chhattisgarh.

---- Respondent

16/05/2017	Shri Awadh Tripathi, Advocate for the appellant. Shri Avinash Mishra, Panel Lawyer for the State/ respondent. Heard on I.A. No. 2 of 2016, an application for suspension of sentence and grant of bail to the appellant. By the impugned judgment dated 21.6.2016 passed by the learned Additional Sessions Judge (F.T.C.), Raigarh, District Raigarh, Chhattisgarh in Special Case No. 82 of 2015, the appellant stands convicted under Sections 363 and 366 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 3 years and RI for 5 years and to pay fine of Rs.200/- and Rs.500/-, in default of payment of fine, to further undergo RI for two months and RI for three months. He also stands convicted under Section 6

of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo imprisonment for life and to pay fine of Rs.1,000/-, in default of payment of fine, to further undergo RI for six months with a direction to run the sentences concurrently.

Learned counsel for the appellant submits that the prosecutrix remained alongwith the accused/ appellant for about two months and that she was a consenting party. He further submits that as per ossification test, the age of the prosecutrix was about 18 years, her date of birth, as 4.8.2000, has not been proved by the prosecution as required under the law. It has been argued that there is in fact no legally admissible evidence showing the prosecutrix to be minor.

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

Considering the totality of the case, in particular, the statements of the prosecutrix, the evidence related to her age, the detention period of the accused/ appellant which comes to about two years, 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 the 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.50,000/- 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