

HIGH COURT OF CHHATTISGARH, BILASPUR

ORDER SHEET

Criminal Appeal No.1988 of 2017

Shivcharan @ Lajharu Lohar S/o Budhram Lohar Aged About 22 Years R/o Village Losga, Police Station Lakhanpur, District Sarguja, Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Batauli, District Sarguja, Chhattisgarh.

---- Respondent

11.04.2018	Shri Dashrath Kushwaha, counsel for the Appellant. Shri Rahul Tamaskar, Panel Lawyer for the State. Heard on I.A No.1/2017, an application for suspension of sentence and grant of bail. By the impugned judgment dated 01.11.2017 passed by the Special Judge (SC/ST Act), Surguja, District Ambikapur (CG) in Special Sessions (Atrocities) Trial No.48/2015, the Accused/Appellant stands convicted under Sections 366, 376 (2)(n) IPC and 3(2)(v) of the SC/ST Act and sentenced to undergo RI for 5 years with fine of Rs.1,000/-, to undergo RI 10 years with fine of Rs.2,000/- under Sections 366 and 376(2)(n) respectively and to life imprisonment with fine of Rs.5,000/- under Section 3(2)(v) of the SC/St Act with usual default stipulations. Learned Counsel for the Appellants submits there is inordinate delay of about 15 days in lodging the FIR and the said delay has not been explained by the prosecution in accordance with law. It has been argued that during the delay of 15 days, the prosecutrix visited several places along with the Appellant without offering any protest. It has been further argued that there is no legally admissible evidence showing the prosecutrix to be minor Lastly, it has been argued that the Appellant is in jail since 17.6.2015 and that the Appeal is likely to take quite some time for its disposal and therefore,

he may be released on bail.

On the other hand, learned State Counsel opposes the bail application.

We have heard learned counsel for the parties.

Considering the totality of the facts and circumstances of the case, in particular, the nature of evidence available on record, without further commenting on merits, we are of the opinion that present is a fit case to suspend the jail sentence imposed upon the Appellant.

Accordingly, IA No.1/2017 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 his furnishing a personal bond in the sum of Rs.50,000/- with one surety in the 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/-
(Sanjay Agrawal)
JUDGE