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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 278/2020

SHAMBHU

.....Appellant

Through: Mr. Himanshu Anand
Gupta (DHCLSC), Mr. Sidharth Barva, Ms. Navneet Kaur,
Mr. Shekhar Anand Gupta,
Mr. Mike Desai & Mr. Anvesh Verma, Advocates
versus

STATE

.....Respondent

Through: Ms. Shubhi Gupta, APP for State

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

25.08.2025

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CRL.M.(BAIL) 721/2024 (suspension of sentence)

1. The present application has been filed seeking suspension of sentence during the pendency of the appeal.
2. By way of the appeal, the appellant seeks to assail the judgement of conviction dated 12.12.2019 vide which he has been convicted for offences punishable under Section 376(2) IPC and Section 6 of the POCSO Act and vide order on sentence dated 19.12.2019, he has been directed to undergo rigorous imprisonment for a period of 30 years for the offence punishable under Section 376(2) IPC alongwith payment of fine of Rs.1,000/-, in default whereof, he was directed to further undergo rigorous imprisonment for a period of 30 days. The benefit of Section 428 Cr.P.C. has also been provided to the appellant.
3. Learned counsel for the appellant submits that the conviction rests upon the school records which are unreliable, particularly as the victim and her mother deposed that she was a major and the relations were consensual. It is urged that the appellant himself admitted intercourse but maintained that it was with consent, and hence suspension of sentence ought to be granted.
4. Learned APP for the State, on the other hand, opposes the application. She submits that the Trial Court has given cogent reasons to reject the oral testimony of the victim and her mother about her age, and accepted the contemporaneous school records which established that the victim was below 18 years at the relevant time. It is further



pointed out that the victim became pregnant and DNA analysis confirmed the appellant as the biological father. The testimony of PW-6 (school principal) as well as the RFSL report corroborates the prosecution case. It is also highlighted that the appellant was released on interim bail on 12.08.2020 but failed to surrender on time and was re-arrested only on 29.02.2024.

5. A perusal of the Trial Court record reveals that the victim (PW-1), though partly hostile, admitted sexual relations with the appellant which resulted in pregnancy. Her mother (PW-4) also deposed similarly. While the defence sought to rely on their oral testimony to argue majority and consent, the Trial Court disbelieved the same in view of the school records produced by PW-6 reflecting the victim's date of birth as 08.03.2004. The RFSL report (Ex. PX-6 and PX-7) confirmed that the appellant was the biological father of the child born to the victim. The appellant, in his statement under Section 313 Cr.P.C., admitted intercourse but pleaded that the prosecutrix was major and consenting. No defence evidence was led. The Trial Court, after considering the entire material, convicted the appellant under Section 376(2) IPC and Section 6 of the POCSO Act.

6. Considering the age of the child victim, DNA report on the fetus as well as looking into the nominal roll, as per which, the appellant has undergone 05 years and 28 days alongwith earned 04 months and 19 days and the unexpired portion is 24 years, 06 months and 13 days as on 21.03.2025, I find no ground to entertain the present application. Accordingly, the same is dismissed.

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1. List in due course.
2. At this stage, learned APP for the State, on instructions, informs that the complainant/prosecutrix has not received the compensation of Rs.10,00,000/- till date. The Member Secretary, DSLSA, Rouse Avenue shall ensure that the awarded compensation is disbursed and received by the complainant/prosecutrix at the earliest. The concerned IO/SHO shall also facilitate the complainant/prosecutrix in approaching the aforesaid DSLSA for the aforesaid purpose.

MANOJ KUMAR OHRI, J

AUGUST 25, 2025/na