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

+ CRL.A. 780/2023

RAKESH YADAV

.....Appellant

Through: Mr. Rahul Sharma and Mr. Ashish
Dogra, Advocates.

versus

THE STATE

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Sonu Kumar P.S. Okhla Industrial
Area, New Delhi.
Mr. C. Mohan Rao, Senior Advocate
with Mr. Lokesh Kumar Sharma,
Advocate for victim

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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29.08.2025

CRL.M.(BAIL) 1557/2023 (suspension of sentence)

1. The present application has been filed by the applicant/appellant seeking suspension of sentence during the pendency of the appeal.
2. By way of present appeal, the appellant seeks to assail the judgement of conviction dated 08.06.2023 and order on sentence dated 20.10.2023 vide which he has been directed to undergo RI for a period of 20 years alongwith fine of Rs.50,000/-, in default whereof he would undergo SI for 6 months, for the offence punishable under Section 4 POCSO. Benefit under Section 428 Cr.P.C. was also provided to the appellant.
3. Learned counsel for the applicant/appellant submits that, as per the prosecution case, the victim was alleged to be 14 years and 7 months old at



the time of the incident, and this was sought to be established through the testimonies of PW-7 and PW-8. However, the birth certificate of the child victim, which was placed on record, was found not to have been issued by the office of the concerned SDM, who was examined as CW-1. Learned counsel for the appellant further submits that though the incident is stated to have occurred in a *jhuggi* cluster, no public witnesses were examined. He further contends that the FSL report also does not support the prosecution's case.

4. The present application is vehemently opposed by the learned APP for the State, Ms. Shubhi Gupta, and learned Senior Counsel, Mr. C. Mohan Rao, appointed as *Amicus Curiae* to represent the victim. Mr. Rao submits that though CW-1 has stated that the first birth certificate in question was not issued by the office of the concerned SDM, a second birth certificate was produced by way of a supplementary *challan* and due opportunity was given to the appellant to cross-examine on the said aspect at that stage. He further submits that the incident took place at 04:30 AM and, as per the allegations of the child victim, the appellant had dragged her inside his own *jhuggi* before committing sexual assault upon her. The learned APP points out that the MLC of the victim notes a healed tear on the posterior wall of her hymen.

5. I have heard the learned counsels for the parties and gone through the testimony of the child victim. As per the nominal roll dated 12.07.2025 on record, the unexpired portion of the appellant's sentence, as on 11.07.2025, is 16 years, 3 months, and 23 days.

6. In view of the aforesaid, at this stage, I find no ground to entertain the present application and the same is accordingly dismissed.



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List in due course.

AUGUST 29, 2025/rd

MANOJ KUMAR OHRI, J