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

+ **CRL.A. 273/2018 with CRL.M.(BAIL) 144/2022**

NEERAJ

.....Appellant

Through: Mr. Aishwarya Rao, Advocate
(DHCLSC) with Ms. Mamta and Ms.
Mansi Rao, Advocate.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Hemant Mehla, APP for State
with SI Jeetendra Kumar, PS
Mukherjee Nagar.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

26.03.2025

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CRL.M.(BAIL) 144/2022 (suspension of sentence)

1. The Appellant has been convicted in case no. SC No. 57610/2016 arising from the FIR no. 748/2014 registered under sections 363/376 of the Indian Penal Code, 1860¹ and Section 4 of the Protection of Children from Sexual Offences Act, 2012², registered at PS: Mukherjee Nagar. The Appellant was convicted *vide* judgement dated 8th December, 2017³ passed by the ASJ-01/Special Judge (POCSO Act), (North) Rohini Courts, New Delhi for offences under Section 376(2)(i)(n) of the IPC and Section 6 of POCSO Act. Through the order on sentence dated 14th December, 2017 he has been sentenced to undergo rigorous imprisonment for 10 years for the

¹ "IPC"

² "POCSO"



offence u/s 376(2)(i)(n) IPC. Further, he was directed to pay fine of Rs.30,000/- for the offence under section 376(2)(i)(n) IPC and in default serve simple imprisonment of 60 days.

2. Through the instant application, the Appellant seeks suspension of sentence. Counsel for the Petitioner argues that the Appellant has been acquitted under Section 363 IPC. The Trial Court has specifically noted that on the fateful night, the victim had left the house willingly with the accused, without there being any enticement or any other overt act on the part of the convict. Thus, the offence of kidnapping of the victim could not be established. She argues that, applying the same logic, the Appellant ought to have also been acquitted for the offence under Section 376 IPC. She submits that the victim was in love with the Appellant and had voluntarily accompanied him and had physical relations with him of her own free will. She disputes the age of the victim at the time of alleged commission of offence and submits that the victim had attained the age of discretion. In this background she submits that a distinction has to be drawn by the Court in deciding the cases, where there is no consent, and in cases where there is a consent on the part of the victim, notwithstanding the age of the victim.

3. The aforementioned contentions certainly require consideration. Be that as it may, we are presently, adjudicating the application for suspension of sentence. In *Sonadhar vs. State of Chattisgarh*⁴ and *Saudan Singh vs. The State of Uttar Pradesh*,⁵ the Supreme Court has observed that in cases other than the ones concerning life sentences, broad parameter of 50% of actual sentence undergone can be the basis of granting bail.

³ “Impugned decision”

⁴ 2021 SCC OnLine SC 3182



4. In *Saudan Singh* (supra) the Supreme Court *inter alia* held as under:

“7. We may note that there may be even convicts in custody in cases other than life sentence cases and in those cases again the broad parameter of 50 per cent of the actual sentence undergone can be the basis for grant of bail.”

5. As per nominal roll, as on 21st March, 2025, the Appellant has undergone sentence of 8 years 4 months and 18 days with unexpired portion of his sentence being 7 months and 11 days. He has earned remission of 1 year and 1 day. Thus, as on date, the Appellant has served nearly entirety of the sentence. The jail conduct of the Appellant for last one year has been found to be satisfactory. The appeal is expected to take some time. If the Appellant’s sentence is not suspended, there is a high possibility that he will serve the entire sentence before his appeal is heard, rendering the appeal process merely a formality.

6. Considering the aforementioned decisions of the Supreme Court and the fact that the Appellant has served nearly entirety of the sentence awarded and since the hearing of the appeal is likely to take some time, the Court is inclined to suspend the sentence of the Appellant during the pendency of the present appeal petition.

7. Accordingly, the Appellant shall be released on bail, subject to him furnishing a bail bond in the sum of INR 25,000/- with two sureties of the like amount, subject to the satisfaction of the concerned Jail Superintendent/Trial Court/ Duty MM on the following conditions:

- (a) The Appellant shall, under no circumstance, leave the NCT of Delhi, without permission of the Trial Court, during the period of his release;
- (b) The Appellant shall not directly or indirectly make any inducement,

⁵ 2021 SCC OnLine SC 3259



threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;

(c) The Appellant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;

(d) The Appellant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

(e) The Appellant shall not commit any offence during the period of his release.

(f) The Appellant shall report to the concerned Investigating Officer on first Friday of every month and shall not be kept waiting for longer than one hour for this purpose.

8. The application is allowed in the afore-mentioned terms.

CRL.A. 273/2018

9. List in due course.

SANJEEV NARULA, J

MARCH 26, 2025/PB