

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Criminal Appeal (Sb) No. 536/2026
CNR: RJHC010100862026 | URN: CRLAS / 1151U / 2026

Maniya S/o Dhuliya, Aged About 25 Years, Village Rujadi, P.s. Pipal Khunt, Dist.- Pratapgarh. (Presently In Judicial Custody At Central Jail, Jodhpur)

----Appellant

Versus

1. State Of Rajasthan, Through Public Prosecutor Jodhpur
2. Jaya Alias Jiwa D/o Rakma, Aged About 16 Years, Through Her Father Rakma S/o Masru Age 43 Years, Village Chib Kher Dabara, P.s. Bhungada, Dist - Banswada

----Respondents

For Appellant(s)

:

Mr. Siddharth Karwasra

For Respondent(s)

:

Mr. Narendra Singh Chundawat, PP

HON'BLE MR. JUSTICE KULDEEP MATHUR

ORDER

22/07/2026

Today, the matter was listed for consideration of application for suspension of sentences of the petitioner. However, at the request of both the parties, the appeal itself has been finally heard and is being decided today itself.

1. The present appeal under Section 415 BNSS has been preferred by the appellant against the judgment dated 30.09.2019 passed by the learned Special Court, Protection of Children from Sexual Offences Act 2012 and Children's Court under The Commission for Protection of Child Right Act 2005, Banswara in Special Case No.57/2018 whereby the learned trial court has convicted and sentenced the accused-appellant as under:

Offence under Section	Sentence	Fine	In default
344 of IPC	R.I. for 03 years	Rs.3,000/-	S.I. for 2 months
363 of IPC	R.I. for 04 years	Rs.4,000/-	S.I. for 3 months
366 of IPC	R.I. for 05 years	Rs.5,000/-	S.I. for 4 months
376 of IPC	R.I. for 13 years	Rs.13,000/-	S.I. for 6 months
3/4(2) of POCSO Act	R.I. for 13 years	Rs.13,000/-	S.I. for 6 months
All sentences were ordered to run concurrently.			

2. Briefly stated, the prosecution case is that on 22.04.2017, the father of the prosecutrix submitted a written report at Police Station Bhungada alleging *inter alia* that his daughter, aged about 15 years and 6 months, had gone to a nearby village to participate in a Dandiya programme on 24.03.2017 and did not return home thereafter. It was also alleged that the appellant had enticed and taken away the minor prosecutrix and had committed sexual intercourse with her during the period she remained in his company. On the basis of the aforesaid written report, FIR No.54/2017 came to be registered and investigation was commenced.

3. During investigation, the prosecutrix as well as the appellant were recovered. The Investigating Officer had got the medical examination of the prosecutrix and the accused conducted, recorded the statements of witnesses under Section 161 Cr.P.C., obtained the school record and other documentary evidence relating to the age of the prosecutrix and, after completion of investigation, filed charge-sheet against the appellant for offences punishable under Sections 363, 366 and 376 IPC and Section 3/4 of the POCSO Act.

4. Thereafter, the learned trial Court framed charges against the appellant, who denied the allegations and claimed trial. The prosecution examined twenty-three witnesses and exhibited documentary evidence. The appellant, in his statement under Section 313 Cr.P.C., denied all the allegations levelled against him and pleaded false implication. After appreciating the oral as well as documentary evidence available on record, the learned trial Court convicted and sentenced the appellant by the impugned judgment.

5. Learned counsel for the appellant vehemently contended that the learned trial Court has committed grave error in recording the conviction without properly appreciating the evidence available on record. It was further contended that the prosecution has failed to establish beyond reasonable doubt that the prosecutrix was below eighteen years of age on the date of the alleged incident. To substantiate these contentions, learned counsel submitted that the medical evidence regarding age of the prosecutrix indicates that she was above eighteen years at the relevant time, whereas the learned trial Court has placed implicit reliance upon the school record without satisfying itself about the authenticity and admissibility thereof.

6. It was further submitted that neither the admission form nor the person who had supplied the date of birth at the time of admission was produced before the Court and, therefore, the school record could not have been treated as conclusive proof of age. Learned counsel also submitted that the learned trial Court has failed to properly appreciate the principles governing

determination of age laid down by the Hon'ble Supreme Court in its judgments.

7. Learned counsel further submitted that the evidence on record unambiguously demonstrates that the prosecutrix and the appellant were acquainted with each other, developed a love affair and had voluntarily left their respective homes with the intention of solemnizing marriage. The prosecutrix herself admitted in her testimony that she accompanied the appellant out of her own free will, travelled with him, remained with him for a considerable period and even accompanied him to the Court for the purpose of marriage.

8. Learned counsel for the appellant submitted that there are material contradictions and omissions in the statements of the prosecutrix and other prosecution witnesses, rendering the prosecution version unreliable. Drawing attention of the Court towards the medical and FSL evidence, learned counsel submitted that the same does not corroborate with the prosecution's case. It was, therefore, submitted that the prosecution has failed to establish the charges beyond reasonable doubt and the impugned judgment of conviction deserves to be quashed and set aside.

9. Alternatively, learned counsel submitted that the incident is of the year 2017; the appellant has already undergone a substantial period of incarceration and has faced the agony of criminal proceedings for several years. It was, therefore, prayed that without making any interference on merits/conviction, the sentences so awarded to the appellant may be substituted with the period of sentences already undergone by him.

10. *Per contra*, learned Public Prosecutor supported the impugned judgment and submitted that the learned trial Court has meticulously appreciated the entire evidence available on record. It was contended that the age of the prosecutrix stood duly proved from reliable documentary evidence and, once the prosecutrix was found to be a minor, her alleged consent lost all legal significance. It was further submitted that the testimony of the prosecutrix inspires confidence and finds due corroboration from the surrounding circumstances as well as the evidence collected during investigation. Learned Public Prosecutor, therefore, prayed for dismissal of the appeal.

11. Heard learned counsel for the appellant-applicant and the learned Public Prosecutor at Bar. Perused the material available on record.

12. At the outset, this Court finds that the learned trial Court has undertaken a detailed appreciation of the entire evidence adduced by the prosecution. The prosecutrix has consistently supported the prosecution case in her statement before the Court and has specifically stated regarding her kidnapping by the appellant and commission of sexual intercourse with her during the period she remained in his company. The statements of the prosecutrix finds material corroboration from the medical evidence as well as other prosecution witnesses. It is a settled proposition of law that the testimony of the prosecutrix, if found reliable and trustworthy, is by itself sufficient to sustain conviction and does not require independent corroboration as a matter of rule.

13. So far as the contention regarding the age of the prosecutrix is concerned, the learned trial Court has dealt with the said issue

in considerable detail. Though learned counsel for the appellant has sought to rely upon the opinion of the Medical Board suggesting that the prosecutrix could be above eighteen years of age, the documentary evidence relating to her date of birth, duly proved during trial, has rightly been preferred by the learned trial Court. It is well settled that where reliable documentary evidence regarding age is available, the same ordinarily prevails over medical opinion, which is only an approximate assessment. This Court, therefore, finds no infirmity in the conclusion recorded by the learned trial Court that the prosecutrix was a minor on the date of occurrence.

14. Equally devoid of merit is the submission that the prosecutrix had voluntarily accompanied the appellant. Even assuming that the prosecutrix had accompanied the appellant out of her own volition or that the parties were having a romantic relationship, such circumstance would not exonerate the appellant from criminal liability once the prosecutrix is found to be below eighteen years of age. Under the provisions of the POCSO Act as well as the relevant provisions of the Indian Penal Code, consent of a minor is legally inconsequential.

15. This Court also finds that the discrepancies in statements of prosecution witnesses and FSL report as pointed out by learned counsel for the appellant are only minor inconsistencies, natural to occur after lapse of time, and do not go to the root of the prosecution case. The learned trial Court has appreciated the evidence in its correct perspective and no perversity or illegality warranting interference with the finding of conviction is made out.

16. Consequently, this Court is satisfied that the prosecution has succeeded in proving the guilt of the appellant beyond reasonable doubt. The findings of conviction recorded by the learned court below are based upon proper appreciation of evidence and do not suffer from any legal or factual infirmity warranting interference in appellate jurisdiction. Accordingly, the conviction of the appellant for the offences under Sections 344, 363, 366 and 376 IPC as well as Section 4 of the Protection of Children from Sexual Offences Act, 2012 deserves to be affirmed.

17. However, the question regarding the quantum of sentence stands on a different footing and is required to be considered independently. Sentencing is not a mechanical exercise to be undertaken solely with reference to the statutory maximum or minimum punishment prescribed for an offence. The Court is required to balance the gravity of the crime with the circumstances attending its commission, the antecedents of the offender, the period already undergone, the passage of time and the overall ends of justice.

18. In ***Alister Anthony Pareira vs. State of Maharashtra, (2012) 2 SCC 648***, the Hon'ble Supreme Court explained the principles governing sentencing as under:

"70. Sentencing is an important task in the matters of crime. One of the prime objectives of the criminal law is imposition of appropriate, adequate, just and proportionate sentence commensurate with the nature and gravity of crime and the manner in which the crime is done. There is no straitjacket formula for sentencing an accused on proof of crime. The courts have evolved certain principles: twin objective of the sentencing policy is deterrence and correction. What sentence would meet the ends of justice depends on the facts and circumstances of each case and the court must keep in mind the gravity of the

crime, motive for the crime, nature of the offence and all other attendant circumstances."

19. The aforesaid principle has consistently guided the exercise of appellate jurisdiction while considering whether the sentence imposed requires modification.

20. In the present case, the incident occurred in the year 2017. The appellant has already undergone substantial incarceration pursuant to the impugned judgment. It has also been brought to the notice of this Court that after his release on bail during pendency of the trial, the appellant has not misused the liberty granted to him and has not involved in any criminal activity.

21. Having regard to the totality of facts and circumstances, the nature of evidence available on record, the period already undergone by the appellant, the long lapse of time since the occurrence, the age of the appellant at the relevant time and keeping in view the principles governing sentencing laid down by the Hon'ble Supreme Court in ***Alister Anthony Pareira (supra)***, this Court is of the considered opinion that while the conviction recorded by the learned trial Court deserves to be maintained in toto, the ends of justice would be adequately served by reducing the substantive sentence awarded to the appellant to the period already undergone by him. The sentence of fine imposed by the learned trial Court, together with the default stipulations, deserves to remain unaltered.

22. Consequently, the appeal is allowed in part. The conviction of the appellant under Sections 344, 363, 366 and 376 IPC and Section 4 of the Protection of Children from Sexual Offences Act, 2012 is maintained. However, the substantive sentence of

imprisonment awarded by the learned trial Court is modified and reduced to the period already undergone by the appellant. The sentence of fine and the default sentences shall remain intact. The appellant is in prison and shall be released forthwith, if not wanted in any other case, provided he deposits the amount of fine, if not already deposited.

23. However, keeping in view the provisions of Section 481 BNSS, the accused appellant is directed to furnish a personal bond in the sum of Rs.15,000/- and a surety bond in the like amount before the learned trial court, which shall be effective for a period of six months to the effect that in the event of filing of a Special Leave Petition against the present judgment on receipt of notice thereof, the appellant shall appear before the Supreme Court.

24. All pending applicaiton(s), if any, stand disposed of accordingly.

(KULDEEP MATHUR),J