

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Jail Appeal No. 773/2014

Gurmej Singh @ Fozi S/o Shri Kartar Singh, B/c Jatsikh, R/o Chak 2 KNJ, Police Station Hanumangarh Junction, District Hanumangarh. (Raj.)

----Appellant

Versus

State of Rajasthan

----Respondent

For Appellant(s)	:	Mr. Pradeep Choudhary, Amicus Curiae assisted by Ms. Sampatee Godara
For Respondent(s)	:	Mr. Vikram Singh Rajpurohit, PP

**HON'BLE MR. JUSTICE MANOJ KUMAR GARG
HON'BLE MR. JUSTICE RAVI CHIRANIA**

Judgment

26/08/2025

BY THE COURT : (PER HON'BLE MR. MANOJ KUMAR GARG,J)

Instant criminal jail appeal has been received by post on behalf of the appellant through Superintendent, Central Jail, Bikaner challenging the judgment dated 24.09.2014 passed by learned Special Judge, POCSO Act (District & Sessions Judge), Hanumangarh, in Sessions Case No.23/2014 by which the learned Trial Court convicted and sentenced the appellant as under:

S.No.	Offence U/s	Sentence	Fine	Sentence in default of fine
1.	376(2)(i) IPC	Life imprisonment for remainder of natural life	Rs.25,000/-	6 months SI
2.	3(2)(v) of SC/ST Act	Life imprisonment	Rs.5,000/-	4 months SI

Both the sentences were ordered to run concurrently.

Brief facts necessary to be noted for deciding the controversy are that on 26.08.2014, complainant- Gurpreet Singh S/o Jogendra Singh submitted a written report at Mahila Police Station, Hanumangarh to the effect that while he was engaged in agricultural labor on the farm of Gurpreet Singh S/o Balraj Singh, he received a telephonic communication from his wife- Sita Bai, informing him that the accused-appellant had committed rape upon their daughter- Amandeep. Upon receiving this distressing information, the complainant immediately proceeded to his residence and thereafter accompanied Amandeep to a hospital via the 108 Ambulance service for medical examination and treatment.

On the said report, Police registered the FIR against the accused-appellant and started investigation. During the course of investigation, Police arrested the accused-appellant. On completion of investigation, police filed challan against the accused-appellant before the concerned court.

Thereafter, learned Trial Court framed, read over and explained the charges to the accused-appellant for the offence under Sections 363, 366, 376(2)(i) IPC and Section 5(m)/6 of POCSO Act and Section 3(2)(v) of SC/St Act. He denied the charge and sought trial.

During the course of trial, the prosecution examined as many as eighteen witnesses and also got exhibited relevant documents in support of its case.

The accused appellant was examined under Section 313 Cr.P.C. In defence, no witness was examined.

Learned trial Court, after hearing the arguments from both the sides, taking into consideration and appreciating the documentary evidence and the statements of witnesses, vide judgment dated 24.09.2014 convicted and sentenced the accused-appellant for offences as mentioned hereinabove. Hence, this criminal jail appeal.

Mr. Pradeep Choudhary, amicus curiae, appearing for the accused-appellant has argued that the statement of the victim could not be recorded owing to her tender age of merely one and a half years at the time of the incident. Counsel further submitted that the following witnesses have been examined: Sita Bai, the mother of the victim, as PW-1; Taro Kaur, the sister-in-law (Bhabhi) of the complainant, as PW-2; Manjeet Kaur, an independent witness and neighbour, as PW-3; and Gurpreet Singh, the complainant and father of the victim, as PW-7. It was argued that the statements of these witnesses contain material contradictions, omissions, and improvements. Consequently, it was alleged that the trial court erred gravely in passing a judgment of conviction against the accused-appellant. Furthermore, it was contended that at the time of the incident, the accused-appellant was approximately 65 years of age, and he was subsequently sentenced to serve imprisonment for the remainder of his natural life. Currently, the accused-appellant is approximately 76 years old and suffers from declining health. In light of his advanced age and health condition, it was prayed that the sentence of life imprisonment, as awarded by the trial court under Section 372(2)(i) of the IPC, be modified to a lesser term of life imprisonment.

Per-contra, the learned Public Prosecutor has vehemently opposed the prayer made by the counsel for the accused-appellant and submitted that the accused-appellant has committed a heinous crime of committing rape with a minor girl aged about one and a half years. Thus, no leniency or sympathy should be shown against the accused-appellant. Learned Public Prosecutor thus craves dismissal of the appeal.

We have considered the submissions of the counsel for the parties made at bar and perused the impugned judgment as well as record of the case.

At this stage, it is relevant to refer to Section 376(2)(i) of IPC which reads as under :-

"Section 376(2)(i) of IPC : Whoever commits rape on a woman when she is under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine."

In the present case, the prosecution has levelled an allegation against the accused-appellant of committing the offence of rape upon a minor girl, approximately one and a half years of age. The prosecution's case has been substantiated through consistent testimonies of both eyewitnesses and independent witnesses, which have been further corroborated by medical evidence. Based on the totality of the evidence, the prosecution has successfully established the guilt of the accused beyond all reasonable doubt. Regarding the sentence imposed for the offence under Section 376(2)(i) of the IPC, the trial court originally sentenced the accused to imprisonment for the remainder of his

natural life. However, considering the current age of the appellant, who is approximately 76 years old, along with his present health condition, we find it appropriate to modify the sentence.

In light of these circumstances, we are inclined to convert the original sentence of life imprisonment for the offence under Section 376(2)(i) IPC into a sentence of life imprisonment. This adjustment is justified on the grounds of humanitarian considerations, the appellant's age, and his physical well-being, which warrant a compassionate approach while ensuring that the gravity of the offence is duly acknowledged and penalized.

Resultantly, the criminal jail appeal is disposed of. The sentence awarded to the accused-appellant for offence under Section 376(2)(i) IPC is hereby converted from imprisonment for remainder of his natural life to life imprisonment. To that extent, the impugned judgment dated 24.09.2014, passed by the learned Special Judge, POCSO Act (District & Sessions Judge), Hanumangarh passed in Sessions Case No.23/2014 is hereby modified.

The record of the trial court be sent back forthwith.

A copy of this order be communicated to the accused-appellant.

(RAVI CHIRANIA),J

(MANOJ KUMAR GARG),J