



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Criminal Appeal (Db) No. 84/2018

URN: CRLAD / 183U / 2018

Abdul Hafij S/o Shri Abdul Raheman, R/o Gali No. 17, Nawal Nagar Longia Mohalla, Police Station Ganj, Ajmer, At Present Dargi Mohalla Lakhan Kotadi, PS Dargah, Ajmer. At Present Confined In Central Jail Ajmer

----Appellant

Versus

State Of Rajasthan Through P.P.

----Respondent

For Appellant(s)	:	Mr. Vinay Pal Yadav
For Respondent(s)	:	Mr. Amit Kumar Punia, PP

**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE RAVI CHIRANIA**

Order

1.	Date of conclusion of Arguments	15.07.2026
2.	Date on which the order was reserved	15.07.2026
3.	Whether the full order or only operative part is pronounced	Full
4.	Date of pronouncement	28.07.2026

Per, Hon'ble Justice Ravi Chirania

1. The instant appeal has been preferred by the appellant against the judgment dated 08.02.2018 passed by Special Judge, POCSO Court, Ajmer (Rajasthan) in Sessions Case No. 111/2017 (197/2015) CIS No.33/2016, whereby the accused appellant Abdul Hafij, son of Abdul Raheman, was convicted for the offences punishable under Sections 363, 366, 344, 376 (2)(i)(n) of IPC, 1860 and Section 5 (I)(m)/6 of POCSO Act, 2012 and imposed the punishment which are as under:-



Offence u/s	Punishment	Fine	Sentence in default of fine
363 IPC	7 years Rigorous Imprisonment	10,000/-	2 months rigorous imprisonment
366 IPC	7 years Rigorous Imprisonment	10,000/-	2 months rigorous imprisonment
344 IPC	3 years Rigorous Imprisonment	10,000/-	2 months rigorous imprisonment
376(2)(i)(n) IPC	Life Imprisonment	50,000/-	5 months rigorous imprisonment
5(L)(M)/6 POCSO Act	Life Imprisonment	50,000/-	5 months rigorous imprisonment
All sentences were ordered to run concurrently.			

2. Relevant facts of the case, as noted from the record, are that the complainant, Anjum (PW-2), lodged an FIR (Exhibit P-10) dated 25.11.2015 at Police Station Dargah, Ajmer for the offences punishable under Section 363 and 366 IPC, 1860. In the said FIR it was alleged that on 12.11.2015 complainant's daughter, aged about 14 years, left the house without informing anyone in the family and from the very same day the accused-appellant is also missing. In the said FIR it was stated that the complainant had an apprehension that the appellant herein had taken away her daughter.

3. Upon completion of investigation, Police filed the charge-sheet on 18.12.2015 against the accused-appellant for the offences punishable under Section 363, 366, 376 (2)(i)(n) of IPC, 1860 and Section 5 (l)(m)/6 of POCSO Act, 2012. Thereafter,



learned Trial Court framed charges against the appellant and after trial, he has been convicted and sentenced, as stated hereinabove.

4. During the course of arguments, learned counsel for the appellant, while refraining from assailing the findings of conviction on merits, confined his submissions to the substantive sentence awarded to the appellant, and prayed that, in the interest of justice and considering his conduct in jail, the substantive sentence imposed upon him be reduced to the period already undergone.

5. Addressing the court on the mitigating circumstances obtained in the present case for reducing sentence, learned counsel invited attention of this Court towards the cross-examination of Dr. Bhagwan Sahay (PW-4), who conducted general as well as medical examination with regard to the age of the victim. In the cross-examination, he failed to answer satisfactorily regarding the query of age and submitted that age was determined on the basis of X-Ray report and ossification test. Further, the doctor admitted that there may be a variation of 2 to 3 years in the age of the victim due to factors such dietary habits, geographical conditions. Thereby, on the basis of said statement, age of the victim can be assessed between 14 to 16 years which can further go up to 17 years.

6. Further, it was submitted that the appellant has remained in custody, inclusive of remission, for a period of 10 years 7 months and 2 days. Learned counsel further submitted that the appellant's conduct throughout the incarceration has remained good and that he belongs to a family of limited financial means, which has suffered considerable hardship owing to his prolonged



imprisonment. On these grounds, it was earnestly prayed that the appeal be partly allowed and sentence be modified accordingly.

7. **Per contra**, learned Public Prosecutor vehemently opposed the prayer made on behalf of the appellant and submitted that the sentence awarded by the learned trial Court is proportionate to the gravity and nature of the offence proved against him. It was contended that the appellant stands convicted for a serious offence of subjecting a 14 year-old girl to rape under the provisions of the POCSO Act, therefore, no indulgence in the matter of sentence is warranted merely on the ground of the period of incarceration already undergone. It was, therefore, prayed that the appeal, being devoid of merit, deserves to be dismissed and the conviction as well as the sentence awarded by the learned trial Court be affirmed.

8. **Heard** learned counsel for the parties and perused the material available on record.

9. The complainant (PW-2) lodged the FIR on 25.11.2015 with a delay of almost 13-14 days, alleging that her minor daughter had been missing since 12.11.2015, and expressed an apprehension that the present appellant had taken her away. Pursuant to registration of the FIR, the police recovered the victim on 25.11.2015. Thereafter, her statement was recorded on 26.11.2015 under Section 164 CrPC, whereafter she was medically examined. Upon completion of the investigation, the police filed the charge-sheet dated 18.12.2015 against the appellant and trial was conducted against the accused appellant wherein he was convicted for the offences punishable under



section 363, 366, 344, 376 (2)(i)(n) of IPC, 1860 and Sections 5(l)(m)/6 of POCSO Act, 2012.

10. This Court is of the considered opinion that the learned trial Court vide its judgment dated 08.02.2018 has rightly held that the charges against the appellant have been proved by the prosecution beyond reasonable doubt and no infirmity, illegality or perversity is noted in the findings of conviction as recorded by the learned trial Court. Even otherwise he has not assailed the impugned judgment on merits.

11. This Court finds strength in the submission made by the learned counsel for the appellant with respect to the sentence awarded to him. It is noted from the custody certificate, as placed on record, that the appellant has remained in custody for a substantial period, which is 10 years 7 months and 2 days. Learned counsel submitted that at the time of the commission of the offences, in the year 2015, Section 6 of the POCSO Act, 2012 prescribed a minimum sentence of ten years' rigorous imprisonment, which could be extended to imprisonment for life. The minimum sentence under the said provision was enhanced to twenty years by the POCSO (Amendment) Act of 2019 which came into effect from 16.08.2019 and that there is no provision for retrospective application of the same in the said amendment. Also, Section 376(2) of IPC, 1860 prescribes for a minimum sentence of ten years rigorous imprisonment, which could extend upto life imprisonment. In view of the aforesaid, it is noted that the appellant had already undergone the minimum prescribed period under the provisions of law.



12. As emphasised by the learned counsel, this Court examined the judgments relied upon by him on the question of modification of sentence and to release the appellant on the basis of period he has already undergone.

12.1. The Hon'ble Apex Court in the case ***Bavo v. State of Gujarat*** reported in **(2012) 2 SCC 684**, had dealt with a similar situation wherein the victim was a 7-year-old girl and for committing rape upon her, the appellant was convicted under Section 376(2)(f) of the IPC, 1860. While affirming the conviction, the Hon'ble Apex Court took into consideration the mitigating circumstances that the appellant was 18–19 years of age at the time of the incident, belonged to a poor family, and that almost ten years had elapsed since the occurrence of the incident. In the peculiar facts and circumstances of the case, the Supreme Court held that the imposition of the maximum sentence of imprisonment for life was not warranted and, accordingly, modified the sentence to rigorous imprisonment for ten years, i.e., the minimum sentence prescribed under Section 376(2)(f) of IPC, besides reducing the fine imposed upon the appellant. The relevant paragraphs of the judgment are reproduced hereinunder:-

"12. *The learned counsel for the appellant relied on a decision of this Court in Narayanamma v. State of Karnataka [(1994) 5 SCC 728: 1994 SCC (Cri) 1573] and contended that the life imprisonment is not warranted and sentence may be reduced to the period already undergone. The said decision relates to the rape on a minor girl aged 14 years. While the trial Judge convicted and sentenced the accused to three years' RI, the High Court reversed the same and acquitted the accused. It*



was challenged before this Court. After considering the entire materials, this Court set aside the order of the High Court and affirmed the conclusion arrived at by the trial court. Though this Court expressed displeasure in awarding only three years' RI for the crime of rape, taking note of the length of time, not inclined to enhance it and confirmed the sentence awarded by the trial court.

13. *The counsel for the appellant relied on another decision of this Court in Rajendra Datta Zarekar v. State of Goa [(2007) 14 SCC 560: (2009) 1 SCC (Cri) 892] . The said case also relates to the offence under Section 376. The victim was aged about 6 years and the accused was aged about 20 years. Ultimately, this Court confirmed the conviction and sentence of 10 years as awarded by the High Court. However, the fine amount of Rs 10,000 awarded under Section 376(2)(f) being found to be excessive was reduced to Rs 1000.*

14. *Considering the fact that the victim, in the case on hand, was aged about 7 years on the date of the incident and the accused was in the age of 18/19 years and also of the fact that the incident occurred nearly 10 years ago, the award of life imprisonment which is maximum prescribed is not warranted and also in view of the mandate of Section 376(2)(f) IPC, we feel that the ends of justice would be met by imposing RI for 10 years. The learned counsel appearing for the appellant informed this Court that the appellant had already served nearly 10 years.*

15. *Coming to the quantum of fine, in the case on hand, the learned trial Judge has imposed Rs 20,000, in default, to undergo RI for three years. The learned counsel for the appellant submitted that the accused hails from a poor family and was working as an agricultural labourer and is not in a position to pay such a huge amount as fine which is not disputed by the State. Taking note of all these aspects, we reduce the fine of Rs 20,000 to Rs 1000, in default, to further undergo RI for one month.*



16. In view of the above discussion, the conviction imposed on the appellant herein is confirmed. However, the sentence of life imprisonment is modified to RI for 10 years with a fine of Rs 1000, in default, to further undergo RI for one month."

12.2. The Hon'ble Apex Court further in the case of **Nawabuddin v. State of Uttarakhand** reported in **(2022) 5 SCC 419** upheld the conviction of the appellant under Section 376(2)(i) of the Indian Penal Code, 1860, and Section 6 of the POCSO Act, 2012 for committing aggravated penetrative sexual assault on a four-year-old girl. While affirming the findings of guilt and the concurrent judgments of the lower courts, the Court, noting the mitigating circumstances of the appellant's age which was approximately 70-75 years and his reported suffering from Tuberculosis, reduced the sentence of life imprisonment to fifteen years of rigorous imprisonment, confirming the fine and compensation imposed by the trial court.

"20. In the present case, it is to be noted that the accused was aged approximately 65 years of age at the time of commission of offence. He was a neighbour of the victim girl. He took advantage of the absence of her parents, when her mother went to fetch water and her father had gone to work. He is found to have committed aggravated penetrative sexual assault (as observed hereinabove) on a girl child aged four years, which demonstrates the mental state or mindset of the accused. As a neighbour, in fact, it was the duty of the accused to protect the victim girl when alone rather than exploiting her innocence and vulnerability. The victim was barely a four year girl. The appellant-accused was the neighbour. The accused instead of showing fatherly love, affection and protection to the child against the evils of the society, rather made her the victim of lust. It is a case where



trust has been betrayed and social values are impaired. Therefore, the accused as such does not deserve any sympathy and/or any leniency.

21. *However, the punishment provided for the offence under Section 6, as it stood prior to its amendment and at the time of commission of the offence in the instant case for aggravated penetrative sexual assault, was rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life and shall also be liable to fine. Now as per the amended Section 6 with effect from 16-8-2019, the minimum punishment provided is twenty years and which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death. Therefore, at the relevant time the minimum punishment provided for the offence under Section 6 of the PocsO Act, 2012 was ten years' RI and which may extend to imprisonment for life. It is reported that today the accused is aged 70-75 years of age and it is also reported that he is suffering from Tuberculosis (TB). Therefore, considering such mitigating circumstances we are of the opinion that if the life sentence is converted to fifteen years' RI and the fine imposed by the trial court confirmed by the High Court to be maintained, it can be said to be an adequate punishment commensurate with the offence committed by the accused."*

12.3. The Co-ordinate Bench of this Court in the case of **Heera Lal v. State of Rajasthan** in **D.B. Criminal Appeal No. 89/2018** upheld the conviction of the appellant under Section 5/6 read with Section 29 of POCSO, Act 2012, for committing aggravated penetrative sexual assault on a two-year old girl. While affirming the findings and the judgments of the sub-ordinate Court, the Co-ordinate Bench placed reliance on the judgments of this Court, the judgments of the Hon'ble Apex Court where similar



issues arose for consideration before the Court and modified the sentence from life imprisonment to period already undergone. The relevant paragraph of the **Heera Lal (supra)** is reproduced as under:-

"A coordinate Bench of this Court has, in case of Dushyant @ Chhota Lala @ Devendra versus State of Rajasthan: D.B. Criminal Appeal No.1038/2007, vide its judgment dated 28.01.2015, while dealing with an identical situation wherein, the appellant was found guilty of subjecting a minor girl aged six years to the offence of rape, referring to and relying upon the precedential law of the Hon'ble Supreme Court of India in the cases of Sunil Dutt Sharma versus State (Govt. of NCT of Delhi) reported as (2014) 4 SCC 375 and Bavo @ Manubhai Ambalal Thakore versus State of Gujarat: AIR 2012 Supreme Court 979, held as under:-

" To fortify the submission, counsel for the appellant has placed reliance upon the judgment rendered by us in Chanda Lal @ Harchanda Vs. of Rajasthan DB Criminal Appeal No.947/2005 decided on 26th November, 2014. Counsel for the appellant has submitted that in the case of Chanda Lal @ Harchanda (supra) age of the victim was also 52/6 years this Court has dealt with the prayer of the counsel for Chanda Lal @ Harchanda by observing as under:-

"Shri N.A.Naqvi, Senior Counsel has also very fairly stated that taking the entire perspective of the case, he will only urge and pray before this Court that there were no aggravating circumstances available with the trial Court to award maximum sentence i.e. life imprisonment. The learned counsel has stated that to award the maximum sentence, there must be compelling reasons for the trial Court and such reasons are to be stated in the order whereby sentence is awarded. The



learned Counsel has stated that recently Hon'ble Apex Court in case of Sunil Dutt Sharma Vs. State (Govt. of NCT of Delhi) reported as (2014) 4 SCC 375 while dealing with case of Section 304-B IPC had observed that Court should take notice of aggravating and mitigating circumstances while awarding sentence. The learned counsel for the appellant has also placed reliance upon Bavo @ Manubhai Ambalal Thakore V. State of Gujarat AIR 2012 Supreme Court 979 to contend that Hon'ble Apex Court considering the agony of protracted trial has awarded minimum sentence of ten years. The learned counsel states that in the present case, incident had taken place 11 years ago i.e. in the year 2003 and since then, appellant is in the corridors of the Court. It is contended before us that since, appellant was not released on bail during the trial and his sentence was also not suspended during appeal, thus he continue to languish behind the bars since 04th September, 2003, when his formal arrest was effected.

The learned Public Prosecutor except age of the prosecutrix could not divulge any other reason to persuade us to maintain the sentence awarded by the trial Court.

Hence, taking ratio of law laid in Sunil Dutt Sharma (supra) which in turn had relied upon Sangeet and Another Vs. State of Haryana (2013) Volume 2 SCC 452 and taking aggravated circumstances i.e. age of the prosecutrix and the mitigating circumstance that the appellant is sole bread earner of the family, he is in the corridors of the Court from last 11 years, we follow the mandate of law laid in case of Bavo @ Manubhai Ambalal Thakore (supra) and while maintaining the



conviction of the appellant, reduce the sentence of life imprisonment awarded upon the appellant by the trial Court to ten years rigorous imprisonment. However, we enhance the fine awarded by the trial Court from Rs.5,000/- to Rs. 10,000/- while maintaining the default clause prescribed by the trial Court."

We find no reason to take a contrary view and thus, following the judgment rendered by us in Chanda Lal @ Harchanda (supra) as he was in his youth when offence was committed, and is in corridors of Courts for about last nine years. Hence, we reduce the sentence of life imprisonment awarded upon the appellant by the trial Court to ten years rigorous imprisonment. However, we enhance the fine of Rs. 1000/- awarded by the trial Court to Rs. 10,000/-and in default of payment of fine, the appellant shall undergo one year rigorous imprisonment.

With the above modification and reduction in the sentence i.e from life imprisonment to ten years, the present appeal stands disposed of by enhancing fine from Rs. one thousand to Rs. ten thousand. The appellant in default of payment of fine, shall undergo one year rigorous imprisonment."

This Court has, in the case of Ranjeet S/o Chothmal v State of Rajasthan through P.P. in D.B. Criminal Appeal No.481/2018, vide its order dated 02.02.2026 wherein, the appellant was held guilty of offence under Section 376(2)(i) IPC read with Section 5/6 of the Act of 2012 involving a minor girl aged five years, proceeded to held as under:-

"In view of the fact that a five years girl was subjected to aggravated penetrative

10.1.xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

However, the punishment provided for the offence Under Section 6, as it stood prior to its amendment and at the time of commission of the offence in the instant case for aggravated penetrative sexual assault was rigours imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life and shall also be liable to fine. Now as per the amended Section 6 with effect from 16.08.2019, the minimum punishment provided is twenty years and which may extend to imprisonment for life, which shall



mean imprisonment for the remainder of natural life of that person, and shall also be liable to fine, or with death. Therefore, at the relevant time the minimum punishment provided for the offence Under Section 6 of the POCSO Act, 2012 was ten years RI and which may extend to imprisonment for life. It is reported that today the Accused is aged 70-75 years of age and it is also reported that he is suffering from Tuberculosis (TB). Therefore, considering such mitigating circumstances we are of the opinion that if the life sentence is converted to fifteen years RI and the fine imposed by the Trial Court confirmed by the High Court to be maintained, it can be said to be an adequate punishment commensurate with the offence committed by the Accused.

In the backdrop of aforesaid precedential law and the mitigating circumstances discussed hereinabove, we think that if the sentence awardable is reduced to the sentence already served by the appellant, it would serve the ends of justice."

13. Recently, in the case of ***Ehsaan v State of National Capital Territory of Delhi*** reported in **2026 INSC 720**, the Hon'ble Apex Court upheld the conviction of the appellant therein under Section 376-D of the IPC, 1860, for the offence of gang rape committed upon the victim. In the said case, Hon'ble Court while exercising its discretion, modified the sentence of rigorous imprisonment for life to a minimum term of twenty years of rigorous imprisonment with the benefit of remission as provided under Section 376-D. The modification was premised on the mitigating factors of the appellant's young age, i.e., 25 years at the time of commission of



offence, no criminal antecedents, and possibility of reformation.

The relevant paragraph of **Eshaan (supra)** are reproduced herein under:-

6.4 When a sentence is imposed on an offender, it is done so with trifold purpose i.e. punitive, deterrent and protective. The overall objective is to rid the society of criminal proclivity. The same is done by ensuring that the sentence imposed is proportional to the offence or in other words not overly influenced by the possibility of reformation and instead, striking a judicious balance between the interest of the victim, society and the accused, after following the due process of law. We have considered a number of other judgments also inter-alia Allauddin Mian v. State of Bihar (1989) 3 SCC 5; Navas v. State of Kerala (2024) 14 SCC 82; Sevaka Perumal v. State of T.N (1991) 3 SCC 471; and Parsuram v. State of M.P. (2019) 8 SCC 382. The following aspects reveal themselves when viewed from the lens of imposition of sentence. It must:

- (a) Be in accordance with the nature and gravity of the crime;*
- (b) Adequately protect the interest of the society;*
- (c) Take into account the deterrent purpose of punishment;*
- (d) Consider the motive behind the crime, if any;*
- (e) Give due weight to the conduct of the accused;*
- (f) Examine whether the crime in question was pre-meditated or not;*
- (g) Keep in view the age of the accused and whether he has engaged in any similar offence in past for which he has been duly convicted;*



(h) Account for the number of victims of the offence;

(i) Not consider the religion, race, caste or creed of the offender as a factor;

(j) Consider the possibility of reformation of the accused. It is the duty of the State to establish that the same does not exist; and

(k) The abuse of trust or misuse of personal relationship, if any.

The facets identified by us above are illustrative and not exhaustive. A holistic view of the entire case must be taken in the attending facts of each case. Considering all these factors among others, the foremost duty of the Court is to assess the evidence in a given case; imposing just and adequate punishment upon the accused.

7. In this part, we must consider the precedents wherein sentence has been modified by the Court either from capital punishment to rigorous imprisonment for life or for an otherwise fixed term.

7.1 In *Shankar Kisanrao Khade v. State of Maharashtra* (2013) 5 SCC 546, a two judge Bench, was considering an appeal of the convict who had kidnapped, raped and murdered an intellectually disabled 11-year-old girl. The High Court of Judicature of Bombay, had awarded the death sentence, but this Court reduced the same to rigorous imprisonment for life having considered four aspects - the enormity of the crime; satisfaction of the criminal test; the previous criminal record of the accused even though the same was held to be incorrectly considered by the High Court; and the non-reporting of the offence of sexual assault.



7.2 In *Rajkumar v. State of M.P.* (2014) 5 SCC 353, this Court altered the death sentence, on a conviction under Section 376 IPC, to 35 years of RI without remission, upholding the conviction of an uncle for having committed breach of trust since she was in his care and custody.

7.3 In *Selvam v. State* (2014) 12 SCC 274, a three-judge Bench of this Court while examining the correctness of conviction and sentence of the appellant having been convicted of rape and murder, refused to interfere with the conviction but modified the sentence to minimum thirty years without remission.

7.4 In *Parsuram v. State of M.P.* (2019) 8 SCC 382, the sentence of death awarded to a tutor for having committed rape and murder of a student was modified to actual imprisonment of 30 years on account of the fact that the Courts below did not consider (a) the possibility of reformation; (b) lack of criminal antecedents; and (c) the age of the accused at the time of the offence which was 22 years.

7.5 In *Sundar v. State* (2024) 12 SCC 764, a three judge Bench had while upholding the conviction of the accused on the aspect of kidnapping and murdering a seven year old victim modified the sentence to a minimum of twenty years RI without remission considering that at the time of the offence the accused was 23 years old, had no prior antecedent, had maintained a good conduct in prison and had also made efforts to mend his ways in anticipation of release.

7.6 In *Ravinder Singh v. State (NCT of Delhi)* (2024) 2 SCC 323, the Court while examining the conviction of a father accused of having raped his own daughter, observed that the conviction cannot be



disturbed. The aspect of sentence, it was observed had to be enhanced should the view be that the father will be eligible for remission after 14 years since at the time of release the victim will be still in her 20s and so his presence in her life will be greatly disturbing. Sentence was modified to fixed terms of 20 years.

8. In the present case, the appellant convict has no criminal antecedents; was of only 25 years when the offence was committed; given the young age there is a possibility of reformation. The State has neither brought on record anything to show that the same would not be possible, nor has it contravened the statement made on behalf of the appellant that in the nearly ten years (including remission) that he has been convicted, he has maintained a good conduct. Be that as it may, this Court cannot lose sight of the fact that the offence, as already observed is heinous and is not only against the victim PW-2 but against the society at large. Despite much evolution, sociologically and psychologically, to break away from the chains of patriarchal thought, incidents such as these are only continuing unabashedly. Various amendments have been brought in over the years in the law, and while they may have had positive impact to some extent, the urgency to root out such offences cannot be simmered down even for a bit till these incidents are recorded only in history and are viewed with collective disdain. It would be apposite to refer to some statistics in this regard:

NCRB DATA ON RAPE CASES REPORTED AGAINST WOMEN DURING 2021-2024

SL	CRIME HEAD	2021	2022	2023	2024
1.	Murder with Rape/Gang Rape	284	248	230	266
2.	Rape	31677	31516	29670	29536
3.	Attempt to Commit Rape	3800	3288	2796	2561



14. This Court, in the backdrop of aforesaid precedential law, taking into consideration the facts and circumstances of the case, custody certificate and report regarding the conduct of the appellant in jail as well as during parole, noted that the conduct of the appellant is good. Further, keeping reformatory approach in consideration and the mitigating circumstances as pointed out in the present case, it was noted that there are no previous criminal antecedents against appellant; he has a wife and two sons in the family; the age of the victim as put forwarded by the learned counsel of the appellant on the basis of cross-examination of the Doctor, i.e., PW 4 is between 14 -17 years; long incarceration period served by the appellant, this Court is of the considered view that if the substantive sentence awarded is reduced to the sentence already served by the appellant, i.e., 10 years 7 months and 2 days. Further, after considering the complete financial status and condition of the appellant's family, this Court deems it appropriate to reduce the fine to Rs.50,000/- in the interest of the justice.

Resultantly, this appeal is partly allowed with the following terms:

- (1) While maintaining conviction of the appellant recorded by the learned Special Judge, Protection of Children from Sexual Offences Act, 2012 Ajmer vide judgment dated 08.02.2018 in Sessions Case No. 111/2017 (197/2015), CIS No. 33/2016, the substantive sentence awarded to him is reduced to the period already undergone.



(2) The appellant be set at liberty forthwith, if not required to be detained in any other case.

(3) The fine as imposed by the learned trial Court is reduced to Rs.50,000/-.

(4) The appellant is granted two months' time to pay the fine failing which the learned trial Court shall ensure that, in case of failure, he serves the default sentence.

15. In view of the provisions of Section 437-A CrPC (Section 481 BNSS, 2023), the appellant, Abdul Hafiz s/o Shri. Abdul Rehman is directed to furnish a personal bond in the sum of Rs.25,000/- and a surety in the like amount within four weeks before the Registrar (Judicial) of this Court which shall be effective for a period of six months with the stipulation that in the event of Special Leave Petition being filed against the judgment or on grant of leave, the appellant aforesaid, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

16. Accordingly, the appeal shall stand disposed of.

17. The record of the trial Court be sent back forthwith.

(RAVI CHIRANIA),J

(MAHENDAR KUMAR GOYAL),J

PAYAL DHAWAN