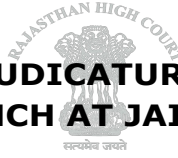




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Criminal Appeal (Db) No. 16/2018

Karan Singh S/o Shri Chanda Lal, aged about 24 years, R/o Dalelpura (Badiya) Police Station Rajgarh (Bayawar), Distt. Rajgarh (M.P.) At Present R/o Village Rajpura, Police Station Dagupura, Tehsil Manoharthana, Distt. Jhalawar (Raj.) (At Present Confined In Central Jail Ajmer)

---Accused-Appellant

Versus

State Of Rajasthan Through P.P.

----Respondent

For Appellant(s)	:	Mr. Anirudh Tyagi with Mr. Buddhi Prakash Meena and Mr. Saurabh Vaishnav
For Respondent(s)	:	Mr. Amit Kumar Poonia, PP Mr. Rajaram Chaudhary with Ms. Sonali Kharra

**HON'BLE MR. JUSTICE MAHENDAR KUMAR GOYAL
HON'BLE MR. JUSTICE SAMEER JAIN**

Judgment

25/02/2026

Per Hon'ble Sameer Jain, J.

Learned Public Prosecutor has furnished the custody certificate dated 23.02.2026 issued by the Superintendent, Central Jail, Shri Ganganagar. The certificate is taken on record.

This criminal appeal is preferred against the judgment dated 17.11.2017 passed by the learned Special Judge, Protection of Children from Sexual Offences Act Cases, Ajmer (for short, 'learned Trial Court') in Sessions Case No.128/2017 (94/2015) CIS No.604/2015, whereby the accused-appellant (for short, 'appellant') has been convicted and sentenced as under:



1. Section 363 IPC: Seven years rigorous imprisonment and fine of Rs.10,000/-; in default whereof, four months additional rigorous imprisonment.

2. Section 366 IPC: Seven years rigorous imprisonment and fine of Rs.10,000/-; in default whereof, four months additional rigorous imprisonment.

3. Section 344 IPC: Three years rigorous imprisonment and fine of Rs.10,000/-; in default whereof, four months additional rigorous imprisonment.

4. Section 376(2)(i) and (n) IPC: Life imprisonment and fine of Rs.25,000/-; in default whereof, five months additional rigorous imprisonment.

5. Section 5(I)/6 Protection of Children from Sexual Offences Act, 2012: Life imprisonment and fine of Rs.25,000/-; in default whereof, five months additional rigorous imprisonment.

All the sentences to run concurrently.

As per the prosecution's case, the appellant raped a girl aged about 15 and a half years on 09.03.2015, and on repetitive occasions thereafter. Considering the same, the appellant has been convicted and sentenced as stated hereinabove.

Learned counsel for the appellant, Shri Anirudh Tyagi, eschewing merits of the case, submits that the learned Trial Court has erred in awarding the appellant life imprisonment under Section 5/6 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'the Act of 2012') read with Section 376(2)(i) IPC along with respective fines inasmuch as, the minimum sentence provided, at the relevant time, was 10 years and the appellant has already undergone the sentence of 10 years, 9 months and 22



days including remission as per the custody certificate dated 23.02.2026 issued by the Superintendent, Central Jail, Shri Ganganagar. He contends that the appellant is a young person, aged about 32 years, surviving with a wife and a daughter and his parents have expired during the period of his custody. He further submits that the appellant is a sole bread earner of the family. Taking a reformatory approach and in the facts and circumstances of the case, learned counsel for the appellant prays that while maintaining conviction, the sentence may be modified to the sentence already served.

Per contra, learned Public Prosecutor assisted by learned counsel for the complainant have strongly opposed the prayer but, could not dispute the aforesaid facts pertaining to the relevant provisions of law at the time of occurrence of the crime. They also could not able to dispute the family status of the appellant.

Heard. Considered.

As per the investigation carried out by prosecution, victim in question is a minor girl aged about 15 and a half years however, on the analysis of the record, it is reflected that the appellant was also in the tender age of about 22 years at the time of occurrence of crime. It is also analyzed from the record that appellant and victim have lived at several public places for a long period of approximately 20-22 days and the victim did not raise any alarm or hue and cry at any point of time during the said period.

As per the prosecution's case, the FIR is registered on 10.03.2015. During relevant time, the position of law by the way of unamended Section 6 of the Act of 2012 provided the punishment as under:



“6. Punishment for aggravated penetrative sexual assault- Whoever, commits aggravated penetrative sexual assault, 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** and shall also be liable to fine.”

Thus, on the date of commission of offence, minimum punishment awarded under Section 6 of the Act of 2012 cannot be less than 10 years which may extend to imprisonment of life as awarded in the case at hand.

It is trite law that in criminal jurisprudence, the relevant law, which is applicable at the time committal of crime, should be made applicable. It is also analysed that the learned Trial Court has also awarded the punishment under Section 376(2)(i) and (n) in which also, at the relevant time, minimum sentence was ten years.

From the material on record, it is also reflected that the certificate which was relied upon by the prosecution to prove the age of victim was not certified by the competent authority, i.e., Principal of the school. Further, it is also reflected that victim and the appellant, who were in tender age, have lived at public places and no hue and cry was ever raised by the victim in question.

We have also analysed that the appellant is sole bread earner of the family surviving with a wife and a daughter and his parents have also expired during the period of his custody and taking into consideration the facts in toto and circumstances of the case, we find substance in the submissions made by the learned

The Hon'ble Supreme Court in the case of **Nawabuddin Vs. State of Uttarakhand: MANU/SC/0165/2022**, has held as under:

[illegible]

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 16.08.2019, 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."

(emphasis supplied)

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

Accordingly, this appeal is partly allowed in following terms:



- (1) While maintaining conviction of the appellant recorded by the learned Special Judge, Protection of Children from Sexual Offences Act Cases, Ajmer (Rajasthan) vide judgment dated 17.11.2017 in Sessions Case No.128/2017 (94/2015), CIS No.604/2015, 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 part is maintained.
- (4) The appellant is granted two months' time to pay the fine failing which the learned trial Court shall ensure that he serves the default sentence.

In view of the provisions of Section 437-A CrPC (Section 481 Bharatiya Nagarik Suraksha Sanhita, 2023), the appellant namely **Karan Singh S/o Shri Chanda Lal** 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 (Judl.) of this Court which shall be effective for a period of six months with the stipulation that in that event of Special Leave Petition being filed against the judgement or on grant of leave, the appellant aforesaid, on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

Pending application(s), if any, also stand(s) disposed of accordingly.

(SAMEER JAIN),J

(MAHENDAR KUMAR GOYAL),J