

**Court No. - 78**

**Case :- CRIMINAL APPEAL No. - 5136 of 2023**

**Appellant :- Guddu**

**Respondent :- State Of U.P. And 3 Others**

**Counsel for Appellant :- Jai Singh Chandel**

**Counsel for Respondent :- G.A.**

**Hon'ble Raj Beer Singh,J.**

**Order on application for suspension of sentence and grant of bail under Section 389(1) Cr.P.C**

1. Heard learned counsel for the appellant and learned A.G.A. for the State.
2. This application has been filed on behalf of the appellant for suspension of sentence and grant of bail during pendency of this appeal.
3. Appellant-Guddu has been convicted under Section 376 I.P.C. read with Section 3/4 POCSO Act and Section 363 I.P.C. by the trial court and the maximum sentence awarded to the appellant is 10 years rigorous imprisonment along with fine.
4. Learned counsel for the appellant submits that the trial court has not appreciated the evidence in correct perspective and there is no credible evidence against the appellant. It was stated that the age of victim in the school record was shown less and in fact she is a major girl. Statement of victim, recorded before the trial court, was referred and it was submitted that her statement shows that she herself has gone with the appellant and she is a consenting party. Victim has not sustained any injury. It was submitted that she has made allegations of kidnapping and rape against the appellant under the pressure of her family members. Lastly, it was submitted

that appellant is languishing in jail since 25.04.2023 and in view of huge pendency of cases, there is no possibility of early hearing in the appeal and thus, in view of aforesaid facts and circumstances of the case, appellant may be granted bail.

5. Learned A.G.A. has opposed the application for suspension of sentence and submitted that as per High School certificate, at the time of incident the age of victim was 16 years and 9 months and in her statement before the trial court, she has made allegations of kidnapping and rape against the appellant.

6. Considering the submission of learned counsel for the parties and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, the Court is of the view that the appellant is not entitled to be released on bail during pendency of the appeal. Hence, the bail application under Section 389(1) Cr.P.C, is hereby **rejected**.

**Order on Appeal**

7. Appeal be listed on 16.10.2023.

**Order Date :- 16.8.2023**

Suraj