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**CALCUTTA HIGH COURT  
IN THE CIRCUIT BENCH AT JALPAIGURI**

**C.R.A.(SB) 7 of 2022**

**With**

**IA No. CRAN 1 of 2022**

**Sushanta Barman**

**-Vs.-**

**The State of West Bengal**

Mr. Ranadeb Sengupta

Mr. S. Guha

.....For the Appellant

Mr. Aditi Shankar Chakraborty

Mr. Biswarup Roy

.....For the State

In re: IA No. CRAN 1 of 2022

Party/parties is/are represented in the order of their name/names appearing in the cause title.

Learned advocate for the appellant moves the application being, IA No. CRAN 1 of 2022 under Section 389 of the Code of Criminal Procedure praying for suspension of sentence of the convict and for releasing him on bail till hearing of the appeal is concluded.

Learned advocate for the appellant submits that copy of the application has been served upon the respondent/State.

Learned advocate for the appellant took me through the impugned judgment passed by Learned Judge cum Additional Sessions Judge, 2<sup>nd</sup> Court, Coochbehar in POCSO Case No.142 of 2015 wherein the convict has been sentenced to rigorous imprisonment for five years and to pay fine of

Rs.10,000/-, in default to suffer simple imprisonment for one year for the offence under Section 10 of the POCSO Act.

It is submitted that there are several anomalies in the evidence adduced by the prosecution witnesses and Learned Trial Judge has arrived at a wrong conclusion placing reliance upon such evidence.

Learned advocate for the State opposes the prayer for bail.

Considered the submissions made by learned advocates for the appellant and learned advocate for the respondent/State.

Perused the impugned judgment and the Memo of Appeal.

Considering the nature and gravity of the offence and the fact that the victim is 8 years of age and the convict is 64 years old at the relevant period of time, it is difficult to accept that there has been false implication of the conviction in this case. However, the right to appeal is a substantive right and the appellant has been sentenced for a term of five years. Under such circumstances, the sentence imposed in this case is suspended under Section 389(2) of the Code of Criminal Procedure subject to the final hearing of the appeal.

Accordingly, the prayer for bail of the appellant is allowed. Appellant be released on bail upon furnishing bond of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of Rs.5,000/- (Rupees Five Thousand Only) each to the satisfaction of Learned Judge, Special Court under the POCSO Act, Coochbehar.

Accordingly, the application being, IA No. CRAN 1 of 2022 is disposed of.

Department is directed to expedite the preparation of Paper Books so that the appeal can be heard and disposed of at the earliest.

Let the appeal go out of the list.

Registrar, Circuit Bench, Jalpaiguri is directed to list the appeal for hearing before the next Circuit Bench.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.

**(Ananda Kumar Mukherjee, J.)**