



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 885 of 2021

- Ashish Lakra S/o Late Lejiyus Lakra, Aged About 18 Years, Resident Of Behratoli, Kunkuri, Police Station Kunkuri, District Jashpur Chhattisgarh. **---- Appellant**

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Kunkuri, District Jashpur, Chhattisgarh. **---- Respondent**

27.02.2023

Mr. Sanjeev Kumar Sahu, counsel, for the appellant.

Mr. B. L. Shau, P.L. for the State.

Heard on I.A. No. 01, which is an application for suspension of sentence and grant of bail.

The appellant has been convicted for the offence punishable under Sections 363, 366(A) of IPC & Section 4 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo RI for 5 years with fine of Rs.1,000/- u/s 363, RI for 5 years with fine of Rs.1,000/- u/s 366(A) of IPC and RI for 10 years with fine of Rs.2,000/- u/s 4 of POCSO Act, with default stipulations, vide judgment dated 24.07.2021 passed by the Special Judge, Kunkuri, District Jashpur in Special Sessions Case No.14/2020.

In spite of notice being served there does not seem to be any representation on behalf of the victim either in person or through a representative to oppose the bail application.

Learned counsel for appellant submits that in the instant case the appellant is jail since 03.10.2020 and as such he has remained in custody for a period of about 2 years 5 months out of the maximum sentence of 10 years. He submits that the appeal is of the year 2021 and therefore, there is no likelihood of an early final disposal of the matter. He further submits that at the time of incident, the age of the appellant was 18 years and the age of the victim PW-1 was almost 18 years since as per the statement of the victim PW-1 herself she



was 17 years 7 months & 22 days of age. Counsel for appellant referring to the statement of PW-1 submits that from the reading of the statement of the victim PW-1 it would be evidently clear that the victim had voluntarily gone along with the present appellant on his bike when the alleged incident is said to have taken place. This would show that the victim was in fact a consenting party and it was only because of the parental interference that the case was registered and the appellant has been prosecuted. Thus, counsel for appellant prays for the appellant to be released on bail.

State counsel, however, opposing the bail application submits that the appellant stands convicted for the offence punishable under the POCSO Act, therefore he does not deserve to be released on bail at this juncture.

Having heard the contentions put forth on either side and on perusal of records, particularly taking into consideration the statement of the victim PW-1 as also her age i.e. 17 years 7 months 22 days on the date of incident and the appellant being 18 years 4 months at the time of incident and further taking note of the period of custody already undergone by the appellant, this Court is of the opinion that prima facie, a strong case for grant of bail to the appellant has been made out.

Accordingly, I.A. No. 01 for suspension of sentence and grant of bail is allowed.

It is directed that the substantive jail sentence imposed upon the appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with two sureties in like sum to the satisfaction of the concerned Trial Court seeking his presence before the said Court on 3rd May, 2023 and thereafter on all further dates to be provided to him by the said Court till disposal of the appeal.

Let this case be listed for final hearing in due course.

**Sd/-
(P. Sam Koshy)
JUDGE**