



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRA No. 1470 of 2021

- Manoj Kumar Sonwani Shri Mukesh Sonwani Aged About 21 Years R/o Village Chilpawan, Thana - Pateva District Mahasamund Chhattisgarh

---- Appellant

Versus

- State of Chhattisgarh, Through: District Magistrate, Mahasamund District- Mahasamund Chhattisgarh.

---- Respondent

28.07.2022	Mrs. Indira Tripathi, counsel for the appellant. Mr. Afroj Khan, P.L. for the State/respondent. Heard on I.A. No. 01/2022, application for suspension of sentence and grant of bail. The appellant has been convicted and sentenced by the judgment of conviction and order of sentence dated 30.10.2021 passed in Special Criminal Case No.H-19/2021 by the Special Judge (POCSO Act), Mahasamund, District- Mahasamund (C.G.) as under:- <table><tr><th>Convictions</th><th>Sentences</th></tr><tr><td>U/s. 363 of IPC</td><td>R.I. for 5 years, fine- 1,000/-, default in payment of fine amount, additional R.I. for 1 month.</td></tr><tr><td>U/s. 366 of IPC</td><td>R.I. for 7 years, fine- 2,000/-, default in payment of fine amount, additional R.I. for 2 months.</td></tr><tr><td>U/s. 4 of POCSO Act</td><td>R.I. for 10 years, fine- 10,000/-, default in payment of fine amount, additional R.I. for 6 month.</td></tr></table> Learned counsel for the appellant submits that there is no reliable evidence against the present appellant to involve him in this case,	Convictions	Sentences	U/s. 363 of IPC	R.I. for 5 years, fine- 1,000/-, default in payment of fine amount, additional R.I. for 1 month.	U/s. 366 of IPC	R.I. for 7 years, fine- 2,000/-, default in payment of fine amount, additional R.I. for 2 months.	U/s. 4 of POCSO Act	R.I. for 10 years, fine- 10,000/-, default in payment of fine amount, additional R.I. for 6 month.
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ingredient of the offence for convicting the appellant is missing, there are ample discrepancy in the statements of the father (PW/2) of the prosecutrix, School Headmaster- Hemant Kumar Panda (PW/4) with regard to age of the prosecutrix. The prosecutrix is appears to be consenting party and as per PW/3 Dr. Alka Pardal, she stated that as per ossification test the age of the prosecutrix is ranging about 17 to 19 years, therefore, the prosecution has failed to prove the age of the prosecutrix below 18 years at the time of incident. The appellant is in jail since 02.02.2021, therefore, he may be granted bail.

On the other hand, learned counsel for the State opposes bail application.

The Prosecutrix alongwith her grandfather appeared before this Court and they raised objection to release of the appellant on bail.

Considering the facts & circumstances of the case, the statements of PW/1, PW/2, PW/3 & PW/4, the evidence collected by the prosecution with regard to the age of the prosecutrix and looking to the detention period of the appellant, who is 21 years old and final disposal of this appeal is likely to take some time, without commenting anything on merits of the case, the application (I.A. No. 1/2022) is allowed.

It is directed that the execution of 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 one surety to the satisfaction of the trial Court. He shall appear before the Registry of this Court on **29.09.2022** and thereafter appear before the trial Court on a date to be given by the Registry and thereafter continue to appear before the trial Court on all such dates as are given to him by the said



Nadim	Court till disposal of this appeal. List the case for final hearing. Sd/- (Sachin Singh Rajput) Judge
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