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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.A. 640/2023

VISHAL @ SONU

.....Appellant

Through: Ms. Malvika Kulkarni, Advocate

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Shubhi Gupta, APP for State with
SI Priyanka, SI Saroj Bala, PS
Fatehpur Beri

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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29.08.2025

CRL.M.(BAIL) 1131/2023 (suspension of sentence)

1. The present application has been filed seeking suspension of sentence during the pendency of the appeal.
2. By way of present appeal, the appellant seeks to assail the judgement of conviction dated 28.09.2022 and order on sentence dated 07.03.2023 vide which he has been directed to undergo rigorous imprisonment for a period of 3 years alongwith payment of fine of Rs.2,000/- under Section 363 IPC, in default of payment of fine, convict shall further undergo simple imprisonment for 15 days further sentenced to rigorous imprisonment for 5 years alongwith fine of Rs. 2000/- for the offence punishable under Section 366 IPC, in default of payment of fine, convict shall further undergo simple imprisonment for 15 days and further directed to undergo rigorous imprisonment for a period of 12 years alongwith payment of fine of Rs. 5,000/- under section 6 POCSO Act, in default of payment of fine, convict



shall further undergo simple imprisonment for 30 days. The benefit of Section 428 CrPC has also been provided to the appellant.

3. Learned Counsel for the appellant has primarily argued that the victim during the course of the investigation could not identify the place where the alleged incident was stated to have been committed. It is further contended that the testimony of the child victim further carries inconsistencies when compared with earlier statements recorded under Section 161, 164 Cr.P.C. It is further submitted that the FSL reports also does not lend any support to the case of the prosecution. She further states that the victim had quarrel with one Kusum, however she was not examined and even the mother of the child victim was not examined during the trial.

4. The application is opposed by learned APP for the State as well as learned counsel for the victim who state that in so far as the incident is concerned the testimony of the child victim is consistent regarding the fact that the incident had occurred on two separate occasions firstly in the month of February, 2017, and again on 14.07.2017. The prosecutrix was aged around 15 years 4 months at the time of incident.

Learned APP has further drawn the attention of the court to the cross examination where suggestions have been given of consensual sex, this contention has been addressed with respect to the age of the child victim. It is further submitted that the child victim has stated that the appellant's studio is located on the way to the victim's school.

5. In the present case the allegations pertain to commission of offence of rape, first at a massage parlour and then at a rented room in Gurgaon. The child victim has stated that at both the places, it is the appellant who has taken victim to the place. The MLC of the child victim in her genital



examination records slight pain and redness on introitus and hymen torn.

6. Further, the nominal roll of the appellant dated 21.05.2025 is on record, as per which the appellant has undergone 04 years 6 months 24 days, with remission earned 06 months and 09 days. It is further noted that the appellant is also stated to have prior involvement in a case under of Section 376 IPC being FIR NO. 159/2022 registered under Sections 376/506 IPC and Section 4/10 POCSO Act.

7. Considering the totality of the facts and circumstances of the case, I find no merit in the application. Consequently, the same is dismissed at this stage.

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1. Learned counsel for the victim on instructions states that the victim has received the entire amount of compensation awarded by the Trial Court.

2. Renotify on 28.11.2025.

MANOJ KUMAR OHRI, J

AUGUST 29, 2025/sn