

**IN THE HIGH COURT OF SIKKIM
CRIMINAL APPEAL JURISDICTION**

Crl. A. No.

17

OF

2015

Shri. Indra Kumar Pradhan,
S/o Late Singha Raj Pradhan,
R/o Rhenock Bazar,
East Sikkim.

----- Appellant.

VERSUS

State of Sikkim.

----- Respondent.

PETITIONER
ADVOCATE (S)

FOR ----- Mr. N. Rai, Sr. Advocate with Ms. Tamanna Chhetri,
Ms. Bindu Gurung, Ms. Malati Sharma, Ms. Wangmu
Bhutia and Ms. Sonam Choden Bhutia.

RESPONDENT
ADVOCATE (S)

FOR ----- J. B. Pradhan, Public Prosecutor, Mr. Karma
Thinlay, Addl. Public Prosecutor, Mr. S. K. Chettri,
Asstt. Public Prosecutor and Ms. Pollin Rai, Asstt.
Public Prosecutor.

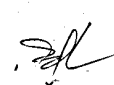
Case No.....

Serial No.	Date	Order (s) with Signature (s)
1	2	3
		Crl. A. No. 17/2015 Indra Kumar Pradhan vs. State of Sikkim BEFORE HON'BLE THE CHIEF JUSTICE MR. JUSTICE S.K. SINHA 04. 06.11.15 Present: Mr. N. Rai, Sr. Advocate with Ms. Wangmu Bhutia, Ms. Tamanna Chettri, Ms. Sonam Choden Bhutia and Ms. Malati Sharma, Advocates for the Appellant. Mr. Santosh Kr. Chettri, Asstt. Public Prosecutor for the State. Heard on admission. Admit. Issue notice. Call for the records. Mr. Chettri accepts notice on behalf of the State and prays for and is granted six weeks' time to seek further instructions. List on 01.03.2016. <u>IA No. 01/2015</u> 1. Heard. 2. This is an Application for suspension of sentences and grant of bail to the Appellant. The Appellant has been convicted under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act, 2012) and sentenced to undergo SI for 5 (five) years and to pay fine

Case No. I.A.No. 01/2015 in C.J.A.No. 19/18

Serial No.	Date	Order (s) with Signature (s)
1	2	3
		of Rs.5,000/- (Rupees five thousand) with default sentence of SI for 3 (three) months. 3. Mr. Rai, learned Senior Counsel for the Appellant takes me to paragraph 27 of the impugned Judgment and submits that the alleged incident is said to have occurred on 14.09.2014, whereas, the First Information Report (FIR) was lodged on 21.10.2014. Thus, there is delay of more than one month in lodging the FIR for which there is no satisfactory explanation. He also took me to the other paragraphs of the Judgment for showing that according to the prosecution the victim had narrated the incident to her mother (PW-3) on the same day, who, in turn, narrated it to her husband (PW-8), but none of them took prompt steps to lodge the FIR. According to Mr. Rai, this creates a doubt on the testimonies of the victim (PW-2), her mother (PW-3) and her father (PW-8). He also submits that the Appellant is an old and infirm aged about 81 years and presently he is in Rongay Jail. He prays for releasing the Appellant on bail by suspending the above sentences awarded to him. 4. On the other hand, Mr. Chettri, learned Asstt. Public Prosecutor appearing on behalf of the State, opposes the

Case No. IA No. 01/2015 in W.A.N. 13/2015

Serial No.	Date	Order (s) with Signature (s)
1	2	3
		above arguments, however, he does not dispute that the FIR was lodged after a period of one month. 5. Considering the facts and circumstances of the case, particularly, the circumstance that FIR was lodged after one month of the incident, I am of the view that present is a fit case to suspend the sentences (jail sentence as well as fine sentence) imposed against the Appellant. 6. IA No. 01/2015 therefore, is allowed and it is directed that the sentences (jail sentence as well as fine sentence) imposed against the Appellant shall remain suspended during the pendency of the Appeal and he shall be released on bail on his furnishing a personal bond in sum of Rs.25,000/- with one surety in like sum to the satisfaction of the trial Court, for his appearance before this Court on 01.03.2016. 7. IA No. 01/2015 stands disposed of. 8. Certified copy as per the Rules.  Chief Justice 06.11.2015

pm/jk . Index : Yes / No
Internet : Yes / No