

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**

**Cr.M.P. No. 1793 of 2026 in**  
**Cr.App.(C-DB) No.34 of 2026**  
**Reserved on : 25.08.2026.**  
**Date of decision: 08.09.2026**  
**Date of upload : 08.09.2026**

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Rohit Kumar

...Applicant

Versus

State of Himachal Pradesh

...Respondent

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*Coram*

***Hon'ble Mr. Justice Vivek Singh Thakur, Judge.***

***Hon'ble Mr. Justice Ranjan Sharma, Judge.***

*Whether approved for reporting?* <sup>1</sup> Yes

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*For the Applicant.*

*Mr. K.S. Gill and Mr. Pankaj Mehta, Advocates.*

*For the Respondent:*

*Mr. Yashwardhan Singh Chauhan, Senior  
Additional Advocate General and Mr. Gautam  
Sood, Deputy Advocate General.*

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**Vivek Singh Thakur, Judge**

This application was preferred by applicant-appellant for quashing of judgment of conviction dated 03.11.2025, passed by Additional Sessions Judge, Fast Track Special Court (Rape/POCSO), Sirmaur, District at Nahan, H.P. in Sessions Trial No. 20-ST(P)/7 of 2023, titled State of

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<sup>1</sup> *Whether the reporters of the local papers may be allowed to see the judgment?*

Himachal Pradesh vs. Rohit Kumar, arising from FIR No. 16/2023, dated 25.02.2023, registered at Police Station Pachhad, District Sirmaur, H.P., whereby he has been convicted under Section 376(3) of IPC and Section 6, read with Section 5(l) and 5(j)(ii) of POCSO Act.

2. In sequel of aforesaid judgment of conviction, applicant, vide order dated 03.11.2025, has been sentenced to undergo rigorous imprisonment for 20 years and also to pay fine of Rs. 20,000/- for commission of offence under Section 6, read with Section 5(j) of the POCSO Act and in default of payment of fine to further undergo simple imprisonment for a period of one year.

3. During adjudication of this application, it was noticed that this application had been filed for quashing of impugned judgment dated 03.11.2025, passed by the Trial Court, however, without any prayer for quashing of FIR or for compounding the matter in terms of compromise. Therefore, it was observed that without going to the merits of plea taken in application as well as question of maintainability of such application, raised by the State, in an appeal preferred against the judgment of conviction and order of sentence that too with prayer of quashing of FIR, this application was to be rejected for not having been constituted properly as well as for defective prayer.

4. Faced with aforesaid observations, learned counsel for the applicant-appellant conceding some defects in application including prayer

made in it, had submitted that he would not be pressing this application for quashing of judgment, but as the applicant is facing incarceration and keeping in view peculiar given facts and circumstances, it would cause undue rigor to him to file another application for suspension of sentence, this application be considered as an application under Section 430 of Bharatiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS') and pleadings and documents referred in this application as well as status report filed by the State be considered for adjudicate the prayer for suspension of sentence, but with liberty to the applicant to avail appropriate remedy for passing an appropriate order by adjudicating the matter on the basis of compromise arrived at between the parties. Accepting his prayer, application has been adjourned for considering prayer for suspension of sentence.

5. It has been submitted by learned counsel for the applicant-appellant that this is a case of love affair, where mistake has been committed by teenagers, resulting into registration of FIR and landing of the applicant-appellant in jail, as the victim girl was a minor at the time of development of physical relationship between applicant-appellant and the victim as well as at the time of giving birth to the child.

6. It has been submitted by the learned counsel for the applicant-appellant that during the pendency of trial, after attaining age of 18 years by the victim, families of the applicant and victim, with consent of applicant-appellant and victim, have solemnized marriage of applicant-appellant and

victim on 02.09.2025 in Rishi Markandeshwar Dham Samiti, Jogivan, Tehsil Nahan, District Sirmaur. The said marriage has been registered with Registrar of concerned Gram Panchayat and victim has been recorded as wife of the applicant-appellant in Family Register of concerned Gram Panchayat.

7. It has been submitted that due to development of physical relationship, victim has also given birth to a child, who is being looked after by her parents, whereas she is doing private job in different private companies for earning her livelihood. Therefore, it has been submitted that applicant-appellant is entitled for suspension of sentence.

8. State has filed status report, stating therein that on 25.02.2023, SI/SHO, Police Station Solan, received a telephonic call from MHC Police Station Solan, informing that a call had been received in Police Station from Regional Hospital, Solan, that one minor pregnant girl had come to Regional Hospital, Solan. On the basis of this information, SI/SHO, Police Station Sadar, Solan, along with Lady Constable Deepika reached to Regional Hospital Solan and statement of victim was recorded under Section 154 Cr.P.C., wherein she stated that she was studying in 10<sup>th</sup> class and her parents were farmers. In the year 2021, Rohit, nephew of her aunt, came to village Dimber, where victim and applicant-appellant were introduced to each other and, thereafter, they used to meet oftenly. Rohit had rented accommodation at village Dimber and in the year 2021, he called victim to

his room and violated her and, thereafter, he repeatedly violated her. In September 2022, he ravished her with advise not to tell anybody about the incident, so victim did not disclose it to anyone.

9. It was further stated by the victim that in December, there was no menstruation, whereupon victim informed her mother in this regard, but her mother did not heed to it and, thereafter, in January, she again told about it to her mother, who replied that it happened sometimes, however, when there was no menstruation, her mother took her to CH Sarahan for treatment, wherefrom she was referred to Regional Hospital Solan on 25.02.2023 for medical treatment. During medical examination in Regional Hospital Solan, it was found that victim was bearing a six-month pregnancy, whereupon Doctors informed the police and police came and statement of victim was recorded under Section 154, Cr.P.C.

10. In the status report, it has been further stated that during pendency of trial, upon completing 18 years of age of victim, marriage between applicant-appellant and victim was solemnized and copy of Marriage Registration Certificate has also been placed on record with the status report. It has been reported that victim is serving in private company at Kala Amb, and both parties have amicably settled the matter between them and complainant does not want to pursue any application or complaint.

11. In present application, victim and her parents have been reflected as respondents No. 2 to 4. Though, no notice was ever issued to

these persons, however, applicant had filed an application Cr.M.P. No. 3424 of 2026 for placing on record affidavits, to substantiate the plea taken for suspension of sentence of applicant in order dated 07.08.2026, sworn by parents of victim, i.e., Kamla Devi (mother of victim) and Virender Singh (father of victim) and by victim as well as parents of the applicant, which were taken on record by allowing the said application on 11.08.2026.

12. In respective affidavits dated 03.08.2026, it has been stated by Virender Singh and Kamla Devi (parents of the victim) that their son-in-law is lodged in jail in connection with FIR No. 16/2023, and that residences of both, victim and the applicant-appellant, are located nearby and both belong to the same caste. Both children were in talking terms with each other and there was an understanding that in future, they would marry, but on the basis of information given by Doctor to the police, FIR had been registered.

13. It has been further stated by Virender and Kamla (parents of victim) that during trial, matter has been amicably settled between the parties and with the intervention of the High Court, they have also solemnized marriage of their children. Further, that both families are socially and financially weak and they have certain traditions. It has been further deposed by parents of the victim that in case applicant-appellant is enlarged on bail, then it will be in the benefit of victim as well as minor child of the couple and further that they have already accepted the applicant-appellant

as their son-in-law, and the applicant's family and relatives have, similarly, accepted the victim into their household.

14. It has been further stated by parents of victim that during detention period of applicant-appellant also, both victim and applicant's families visit the house of each other, and along with their daughter, they also use to go to the home place of the applicant-appellant. Further, that because of their low income, their daughter is also compelled to work in various private companies, because their son-in-law is in jail. Further, that they do not intend to waste the life of applicant-appellant for his continuous detention, as it would ruin the victim as well as her minor child.

15. Noor Singh (father of applicant-appellant) and Sunita Devi (mother of applicant-appellant) have also filed affidavits, duly attested by Executive Magistrate, Pachhad, District Sirmour, H.P., affirming the same facts as has been recorded supra and have stated that the victim is their daughter-in-law.

16. Virender Singh and Kamla Devi (parents of victim) have also stated in affidavits filed by them, that after solemnization of marriage, it was duly registered with the Registrar of Marriage concerned in the concerned Gram Panchayat.

17. Parents of the victim and applicant-appellant have stated that both families are happy and victim and applicant-appellant are also having cordial relations.

18. Victim has also placed on record her affidavit, duly executed by her with submissions that their family's, area and caste are related to each other and, therefore, she has solemnized marriage with the applicant-appellant.

19. Victim has also stated that during detention of applicant-appellant, she used to go both houses because she had to look after the child.

20. To consider the submissions of learned counsel for the applicant-appellant, it would be relevant to refer statements of victim recorded under Sections 154, Cr.P.C, 164, Cr.P.C. as well as in the Court.

21. In her statement recorded under Section 154, Cr.P.C. (Ext. P1/PW6), victim has given details of occurrence by stating that she was being violated by the applicant-appellant since May, 2021 and he had warned her against disclosing the incident to anybody. In December, 2021 and January, 2022, her menstrual cycle was broken and, therefore, she informed her mother about it, but she did not pay heed, and later on, her mother took victim to Civil Hospital, Sarahan, wherefrom victim was referred for Gynecology expert opinion, whereupon victim, along with her mother, visited Regional Hospital, Solan, where ultrasound test was conducted and in the meanwhile, Doctor informed the police.

22. Police came to the hospital and recorded statement of victim, under Section 154, Cr.P.C. and, thereafter, present case was registered.

23. Statement of victim was also recorded under Section 164 Cr.P.C. (Ext. P1/PW9) after administering oath to the victim. In her statement under Section 164, Cr.P.C, victim had stated that what happened with her was completely wrong and the boy had agreed to marry her, and therefore, they intended to compromise the matter. In answer to the question that whether she would intend to tell what wrong happened to her, she had replied in negative by stating '*Nahin*'.

24. In the Court also appearing as PW-9, victim has reiterated the statement on the same line disclosing that FIR was lodged because of telephonic information given by the Doctor to the police.

25. Photocopy of marriage Certificate of solemnization of marriage and Registration Certificate of marriage have also been placed on record along with status report filed by SHO, Police Station Pachhad with the report that marriage between victim and applicant-appellant has been solemnized on 02.09.2025, on completion of 18 years of age by the victim and after registration of marriage in village, in Family Register, name of victim has been recorded as wife of Rohit along with other family members.

26. It has also been endorsed in the status report that minor child of the couple is being looked after by the parents of the victim and victim works in private companies for earning her livelihood.

27. Learned Senior Additional Advocate General, in view of the status report filed by the police has endorsed solemnization of marriage

between victim and applicant-appellant, but he has submitted that developing physical relations with minor is punishable under POCSO Act and, therefore, to give message to the public at large, it would be appropriate to reject the application for suspension of sentence, whereas learned counsel for the applicant-appellant has submitted that for betterment of child as well as the victim (wife of applicant-appellant), situation warrants to suspend the sentence imposed upon the applicant-appellant.

28. In present case, there is conflict between societal interest, family interest as well as individual interest. For protecting the societal interest, for betterment of the society, POCSO Act has been enacted to save minor children from becoming victim of sexual harassment and, therefore, for violation of person of minor victim, FIR has been registered against applicant-appellant and he has been convicted.

29. On the other hand, victim and applicant-appellant appear to be in love with each other and during their meetings, physical relations developed between them, resulting in birth of child. During pendency of trial, marriage between applicant-appellant and victim has been solemnized.

30. Now, in the interest of society, applicant-appellant does not deserve to be enlarged by suspending sentence for welfare and protecting the interest of minor victim, but here minor victim is wife of the applicant-appellant, and from tone and tenor of her statements also, it is apparent that both of them were in love with each other. Now, question of livelihood of the

victim, who is wife of applicant-appellant, and betterment of their child, is also involved.

31. In case sentence is not suspended, then a family will be ruined, as husband is in jail for violating the person of wife when she was minor and wife is working hard in private company(ies) to earn livelihood and there is a family, which cannot live together unless sentence imposed on the applicant-appellant is suspended. Child of the couple is in need of love, affection, protection, and looking after by the mother as well as father, but in the aforesaid circumstances, he is neither being looked after by mother, nor by father.

32. Protection of family and right of child to have company of parents, are also societal interest, as Family is primary unit of the society.

33. There is conflict between two societal interests, one protection of minor children from sexual abuse and another there is challenge to save a family, and to protect the right of child of couple to have family, which is the primary unit of society.

34. Present case is somewhat different from general category, as it is a case where interest of victim is also involved and welfare of victim appears to be in allowing the application, as she has proclaimed herself to be wife of applicant-appellant and also given birth to a child out of the relation, and the complaint has not been lodged by victim voluntarily, but Police was informed by the Doctor, which resulted registration of FIR and the

case has been made out against applicant-appellant, only for the reason that at that at relevant point of time, victim had not attained the age of discretion, and further, it is not a case where it can be said that victim was abducted forcefully and ravished mercilessly and was used as an instrument of enjoyment and thrown out after the use, but it is a case where she visits and lives in the matrimonial house oftenly and she has delivered a child as noticed supra.

35. In the facts and circumstances of the case, this case cannot be termed as a case of spoiling minor victim. Further, it is a peculiar kind of case where there is a conflict between interest of victim and societal interest. Interest of victim is not purely private in nature as rehabilitation and survival of victim and her child is another issue, which involves public interest because to ensure rehabilitation and provide resources for survival of victim is also responsibility of society. Considering entire facts and circumstances of the case, in our opinion balance lies in favour of the prayer of the applicant.

35. Irrespective of above recorded observations, we consider it relevant and necessary to clarify that in present case, we are suspending sentence in peculiar given facts and circumstances and it shall not be precedent in all cases of POCSO for suspending the sentence on the basis of plea of marriage during trial or after conviction, on attaining age of majority, i.e., age of discretion by the minor victim. Each and every case has

to be considered on its own merit in given facts and circumstances of the said case.

37. We are of the considered opinion that in normal circumstances, being teenager, at the age of 18 years, marriage of school/college going girl is not advisable and such practice should not be encouraged. Further, in every case, it has also to be carefully looked into and required to be considered that in POCSO cases and even in such rape cases also, solemnizing marriage with victim, by compelling her or pressurising her family or sometime compelling and pressurising the victim by both side families, must not be allowed to be a tool for suspension of sentence or termination of criminal proceedings, as in such circumstances, victim shall be made to suffer again the trauma for throughout the life, which may cause irreparable loss to her personality as well as soul. The Courts must ascertain the free will of the girl as well as nature of relation of accused/convict and victim before, at the time or after the incident and also must confirm that it is not a case where both families getting rid of victim.

38. Mistake committed by an adolescent, on account of infatuation, attraction, enticement, alluring or threat, must not be allowed to mar future prospects of such adolescent by marrying her immediately on attaining age of 18 years, which is a crucial age period for thinking about career, self-reliance as well as social security.

39. The marriage should not be allowed to be used as a tool to get rid of trial, conviction and sentence imposed upon the culprit, who is responsible for misguiding, misleading and taking undue advantage of adolescent age and curiosity, and also to shut the doors of future and sometimes resulting into closure of study of the victim. This aspect is also required to be observed, adjudged and considered by the all stakeholders, as well as the Courts before allowing such marriage or tactics to be used by the culprit for getting rid of his responsibilities, liabilities as well as actions to be faced for commission of offence, creating trauma in the life of victim.

40. As submitted by learned Deputy Advocate General, we cannot ignore certain incidents known to all, which are examples of using the marriage as a tool to get rid of criminal proceedings or consequences for commission of offences by solemnizing marriage with the victim, but later on such victims were harassed and in some cases, even were killed. Court should try to find out real object of marriage of the accused and victim in such cases by ascertaining the real will and desire of the victim. She must not be pushed by her family to get rid of her for committing a mistake, which is not a sin at all. She must also not be pressurized, terrorized or compelled in any manner by accused or his family or society including her parents and relatives to solemnize marriage with the accused, who had ravished her for enjoyment, but not out of love and/or affair.

41. Growth of individual personality of victim must not be allowed to be hampered, being a victim or compelling her to get married immediately on attaining age of 18 years, only for slipping in her life during adolescent age period.

42. Considering all relevant factors as well as material on record, in present case, we are of the considered opinion that for saving the unit of family, it would be appropriate to suspend the sentence imposed on the applicant-appellant.

43. Accordingly, substantive sentence awarded to the applicant-appellant Rohit Kumar is ordered to be suspended during pendency of the appeal, subject to furnishing personal bond in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of Trial Court, with undertaking therein to appear before this Court as and when directed and in the event of dismissal of the appeal, to surrender before the Court, to serve the remaining sentence with further following conditions:-

1. The applicant-appellant shall look after his family properly, including the victim-wife and their child.
2. The applicant-appellant and his parents shall keep the victim-wife and child along with applicant in their house as family members, so that complete family lives together.
3. The applicant-appellant and his family members shall not harass the victim, rather cooperate with her and in case, the applicant-appellant or his family members found teasing or harassing the victim, suspension of sentence shall be liable to be revoked.

44. Bail bonds so furnished shall be transmitted by the Trial Court to the Registry of this Court for placing the same on record.

45. Parties are permitted to produce a copy of this order downloaded from the web-page of the High Court of Himachal Pradesh, before the Trial Court, and the Trial Court shall not insist for production of certified copy of order, rather Trial Court shall verify passing of this order from the Web-page of the High Court.

Application is disposed of in aforesaid terms with liberty to the applicant to avail appropriate remedy, if so desired, for compounding/quashing of criminal proceedings, as permissible under law.

**(Vivek Singh Thakur),  
Judge.**

**(Ranjan Sharma),  
Judge.**

**8<sup>th</sup> September, 2026**  
(Susheel)