

23.09.2020

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NB/AGM
Ct-19

CRA 45 of 2020
CRAN 1 of 2020 (Old No. CRAN 3535 of 2020)
CRAN 2 of 2020 (Old No. CRAN 3536 of 2020)
(Via Video Conference)

In the matter of : **Sushanta @ Susanta @ Bhombal Dafadar**
..... Appellant/Petitioner

Mr. Kallol Kumar Basu for the appellant.

Mr. Saibal Bapuli,
Ms. Sayanti Santra.
...for the State.

Learned Counsel appearing on behalf of the appellant submits as follows. During trial, the petitioner was all along on bail. He was in custody since the pronouncement of the judgment by the learned Trial Court in December, 2019. The First Information Report was a delayed one, lodged by the father of the victim girl. However, in the statement recorded under Section 164 of the Code, the victim girl had stated that she was about 18 years old and she had an eloped with the appellant on her own volition and thereafter got married to the appellant in a temple. However, after about five years from the date of incident when the evidence was recorded during trial she resiled from her statement made under Section 164 of the Code and went on to support the prosecution.

Learned Counsel appearing on behalf of the State opposes the prayer for suspension of sentence. According to him, even the ossification test report supported the prosecution case that the victim was a minor at the time of the incident. The victim might have stated something different before the learned Magistrate out of fear.

In view of the fact that the victim had resiled from her statement recorded under Section 164 of the Code wherein she had exonerated the appellant, considering that this is a case of term imprisonment and in view of the custody already suffered by the petitioner, I am inclined to suspend the sentence of the petitioner in connection with the present appeal.

Let the petitioner be released on bail subject to the satisfaction of the learned Additional Chief Judicial Magistrate, Basirhat upon furnishing a bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of like amount, one of whom shall be local.

CRAN Nos.1 and 2 of 2020 are disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)