



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 11.01.2024

Judgment delivered on: 15.01.2024

+ CRL.A. 270/2020
BABLU MANDAL

..... Appellant

Through: Ms.Radhika Arora and Mr.Sachin
Arora, Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms.Meenakshi Dahiya, APP for State
with SI Bhawan Phogat, PS Gandhi
Nagar.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

ANOOP KUMAR MENDIRATTA, J.

CRL.M.(BAIL) 1091/2023

1. An application has been preferred on behalf of the appellant under Section 389 of the Code of Criminal Procedure, 1973 ('Cr.P.C') for suspension of sentence in FIR No. 12/2013 for offences under Sections 366/376/506/34 IPC and Section 6 of the POCSO Act registered at PS : Gandhi Nagar, Delhi during the pendency of the appeal.

2. Appellant was convicted vide judgment dated 29.01.2020 and sentenced vide order dated 04.02.2020 to undergo Rigorous Imprisonment (RI) for Seven years and fine of Rs.6,000/- for offence punishable under Section 366 IPC (in default of payment of fine to undergo SI for 1 month);



RI for One year and fine of Rs. 1,000/- for offence punishable under Section 506 IPC (in default of payment of fine to undergo SI for 10 days); RI for 12 years and fine of Rs.10,000/- for offence punishable under Section 6 of the POCSO Act (in default of payment of fine to undergo SI for 02 months). Benefit of Section 428 Cr.P.C was also given to the appellant.

3. Learned counsel for the appellant submits that prosecution has failed to prove the age of the victims since PW-6 Nathni Yadav Nutan, Principal of the concerned school, in her statement deposed that against the entry No.205 and entry No.315 under the name of Victims some initials have been put and white fluid has been used in the name. It is also urged that, the learned Trial Court had observed that perusal of Ex.PW-6/B reflects that different inks were used in mentioning the names of the parents and date of birth. Contradictions are also pointed out in statements of material witnesses.

4. As per nominal roll, the appellant has undergone more than half of the sentence and the un-expired portion of the sentence, as on 07.11.2023, is reflected as 05 years 08 months 22 days.

Hon'ble Supreme Court in *S.L.P. (CRL.) No. 529/2021* titled as "*Sonadhar vs. The State of Chhattisgarh*", observed as under :

“ b) The Delhi High Court Legal Services Committee would take up cases for those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the flexibility of filing a bail application before the High Court ”

5. The appellant has undergone more than half of the sentence and disposal of the appeal is likely to take some time. Considering the totality of the facts and circumstances, the sentence of the appellant is suspended and is admitted to bail on furnishing a personal bond in the sum of Rs.15,000/-



(Rupees Fifteen Thousand only) with one surety in the like amount to the satisfaction of the learned Trial Court and subject to following conditions:

- (i) The appellant shall be released on bail, subject to deposit of fine amount; and
- (ii) The appellant shall provide his mobile number to the Investigating Officer (IO)/SHO concerned at the time of release.

Application is accordingly disposed of.

A copy of this order be forwarded to the learned Trial Court and Superintendent Jail for information and compliance.

CRL.A. 270/2020

Appeal be listed in due course, as per seniority.

(ANOOP KUMAR MENDIRATTA)
JUDGE

JANUARY 15, 2024/v