



2024:DHC:6959



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

Date of Decision: September 10, 2024

+ CRL.A. 413/2020

GEETA ARORA @ SONU PUNJABAN

..... Appellant

Through: Ms.Rebecca M. John, Sr.Adv. with
Mr.Adit S. Pujari, Mr.Gautam
Khazanchi, Ms.Mantika Vohra,
Mr.Zeeshan Thomas, Ms.Suruchi
Jaiswal, Ms.Anushka Baruah and
Mr.Fazar Haroon, Advocates.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Ms.Meenakshi Dahiya and Mr.Aman
Usman, APPs for the State with
Mr.Bhanu Pratap Singh and
Mr.Chetanya Jain, Advocates
alongwith with SI Pankaj Negi, Cyber
Cell.

+ CRL.A. 448/2020

SANDEEP BEDWAL

..... Appellant

Through: Mr. B.Badrinath and Mr.Dhruv
Bhardwaj, Advocates.

versus

STATE (GOVT. OF NCT) OF DELHI

..... Respondent

Through: Ms.Meenakshi Dahiya and Mr.Aman
Usman, APPs for the State with
Mr.Bhanu Pratap Singh and Mr.
Chetanya Jain, Advocates alongwith
with SI Pankaj Negi, Cyber Cell.
Mr. Faraz Maqbool and Ms.Sana
Juneja, Advocates for complainant/
victim.



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**CORAM:****HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA****ORDER****ANOOP KUMAR MENDIRATTA, J.****CRL.M.(BAIL) 422/2022 in CRL.A. 413/2020****CRL.M.(BAIL) 1763/2023 in CRL.A. 448/2020**

1. CRL.M.(BAIL) 422/2022 on behalf of appellant (Geeta Arora @ Sonu Punjaban) and CRL.M.(BAIL) 1763/2023 (second application) on behalf of appellant (Sandeep Bedwal) under Section 389 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C'), have been preferred for suspension of sentence in FIR No. 104/2014 under Sections 328/342/363/366/366A/370/372/373/376/120-B IPC and Sections 4/5/6 of Immoral Traffic (Prevention) Act, 1956 ('ITP Act') registered at P.S. Najafgarh during the pendency of the appeal.

2. Appellants (Geeta Arora @ Sonu Punjaban and Sandeep Bedwal) were convicted vide judgment dated 16.07.2020 and sentenced vide order dated 22.07.2020 as under:

Geeta Arora @ Sonu Punjaban

Rigorous Imprisonment (RI) for ten years and fine of Rs.10,000/- for offence punishable under Section 328 IPC (in default of payment of fine to undergo SI for 06 months); RI for one year and fine of Rs. 1,000/- for offence punishable under Section 342 IPC (in default of payment of fine to undergo SI for 01 month); RI for ten years and fine of Rs.10,000/- for offence punishable under Section 366A IPC (in default of payment of fine to undergo SI for 06 months); RI for ten years and fine of Rs.10,000/- for offence punishable under Section 372 IPC (in default of payment of fine to



undergo SI for 06 months); RI for ten years and fine of Rs.10,000/- for offence punishable under Section 373 IPC (in default of payment of fine to undergo SI for 06 months); RI for ten years and fine of Rs.10,000/- for offence punishable under Section 120-B IPC (in default of payment of fine to undergo SI for 06 months); RI for ten years and fine of Rs.1,000/- for offence punishable under Section 4 of ITP Act (in default of payment of fine to undergo SI for 01 month); RI for fourteen years and fine of Rs.2,000/- for offence punishable under Section 5 of ITP Act (in default of payment of fine to undergo SI for 01 month); and RI for ten years and fine of Rs.10,000/- for offence punishable under Section 6 of ITP Act (in default of payment of fine to undergo SI for 06 months).

Sandeep Bedwal

Rigorous Imprisonment (RI) for seven years and fine of Rs.5,000/- for offence punishable under Section 363 IPC (in default of payment of fine to undergo SI for 03 months); RI for ten years and fine of Rs. 10,000/- for offence punishable under Section 366 IPC (in default of payment of fine to undergo SI for 06 months); RI for ten years and fine of Rs.10,000/- for offence punishable under Section 366A IPC (in default of payment of fine to undergo SI for 06 months); RI for ten years and fine of Rs.10,000/- for offence punishable under Section 372 IPC (in default of payment of fine to undergo SI for 06 months); RI for ten years and fine of Rs.10,000/- for offence punishable under Section 376 IPC (in default of payment of fine to undergo SI for 06 months); and RI for ten years and fine of Rs.10,000/- for offence punishable under Section 120-B IPC (in default of payment of fine to undergo SI for 06 months).

Benefit of Section 428 Cr.P.C was extended to the appellants.



3. Appellant (Geeta Arora @ Sonu Punjaban) has undergone custody for a period of 05 years 08 months 21 days including remission for 10 months 26 days, as per nominal roll, on 29.05.2024. The un-expired portion of sentence is reflected, 17 years 04 months 13 days. She is further stated to be involved in six cases, as per status report filed on behalf of the State.

Appellant (Sandeep Bedwal) has undergone custody for a period of 05 years 08 months 25 days including remission for 08 months 24 days, as per nominal roll, on 16.11.2023. The un-expired portion of sentence is reflected, as 13 years 06 months 11 days.

4. In brief, as per the case of the prosecution, victim aged about 12 years, 10 months and 02 days was kidnapped on 11.09.2009 from School at Gandhi Nagar. Accordingly, FIR No.193/2009 under Section 363 IPC was registered at P.S. Harsh Vihar on complaint of her father.

Thereafter, on 09.02.2014, victim came to the Police Station Najafgarh and her statement was recorded. She stated that in 2009 when she was studying in 6th class, she met Sandeep Bedwal (Convict/Appellant in CRL.A. 448/2020) who told her that he wanted to marry her and on false pretext of marriage, took her to the house of one Seema (co-convict) at Laxmi Nagar, New Delhi where he sexually assaulted her. Thereafter, Sandeep sold her to Seema who forced her into prostitution and also injected her with drugs. Seema further sold the victim to another lady, who in turn sold her to one Manisha. Thereafter, victim was further sold to an old man, who passed her to one Khushi. Khushi also used the victim for prostitution and thereafter, sold her to Geeta Arora @ Sonu Punjaban (Convict/Appellant in CRL.A. 413/2020).

5. It is further the case of prosecution that Geeta Arora @ Sonu



Punjaban used the victim for purpose of prostitution. Further, she used to administer drugs such as 'proxynon' and 'alprex' tablets to the victim and also injected drugs in order to make the body of the victim stiff. Victim further alleged that Geeta Arora @ Sonu Punjaban used to charge Rs.15,000/- per customer and the victim was also forced to go with customers to the hotels booked by the customers themselves.

6. Thereafter, appellant Geeta Arora @ Sonu Punjaban further sold the victim to one *Lala* who sold the victim to Ramesh and Mishra, who also used the victim for the purpose of prostitution. Finally, the victim was sold by Ramesh and Mishra to Satpal who also used the victim for the purpose of prostitution. Rajpal (brother of Satpal) is also alleged to have raped her and subsequently, the victim was taken by Rajpal, to village where eventually Satpal married her. On 07.02.2014, victim left the house of Satpal and on 09.02.2014 reached P.S. Najafgarh, wherein her statement was recorded. FIR No. 104/2014 was accordingly registered under Sections 363/366/342/370/ 370A/372/373/376/34/I20B IPC and Sections 6/10 of POSCO Act was registered at P.S. Najafgarh.

7. Learned Senior Advocate for the appellant Geeta Arora @ Sonu Punjaban submits that there are several discrepancies in the prosecution version and the testimony of victim is not reliable and sufficient to convict the appellant, as three false and frivolous cases of sexual assault were filed by the victim during the period of 2014-2017. She further contends that the allegations leveled by the victim are bereft of any details as to specific date or time of her stay with the alleged accused persons including the appellant Geeta Arora @ Sonu Punjaban. Further, testimony of victim suffers from material contradictions since the statements recorded under Sections 161



and 164 Cr.P.C. as well as the testimony recorded in court are inconsistent, as to the exact chronological sequence in which the victim was allegedly trafficked by the accused. Moreover, in the statement recorded under Section 164 Cr.P.C., victim omitted mentioning Geeta Arora @ Sonu Punjaban as a purchaser and only mentions that appellant was working in partnership with Manisha, and was sent to them by one Seema Aunty. However, in her statement under Section 161 Cr.P.C. as well as her deposition, four perpetrators were alleged to have been involved in the chain of transaction between Seema aunty and appellant Geeta Arora @ Sonu Punjaban (one aunty near Ganesh Kachoriwala, Manisha, old uncle and Khushi). She further urges that the victim in her complaint and statement under Section 164 Cr.P.C., had stated that she was kidnapped in 2006 when she was aged 11-12 years, whereas in her testimony she has changed the timeline by stating that she was kidnapped in 2009.

8. Learned Senior Advocate further urges that no investigation was conducted for a period of three years i.e. December 2014 - December 2017 as the victim was not available, despite the fact that the victim herself approached the police officials on numerous occasions during the aforesaid period to lodge several complaints. She contends that as per case of prosecution victim went missing due to threats by one Khushi and Manisha, however, they were not investigated or arrested, even though the place of work of Khushi was specifically pointed out. She further submits that neither any investigation was conducted regarding three marriages of the victim nor investigation was conducted from other girls who were allegedly kept along with the victim in relation to customers or neighbours in premises where alleged immoral activities took place. It is pointed out that



no medical or corroborating evidence has come on record indicating the administration of any poisonous, intoxicating or stupefying substance to the victim and mere oral evidence cannot suffice. Reliance is further placed upon *Sunil Kumar Sambhudayal Gupta (Dr.) & others vs. State of Maharashtra, (2010) 13 SCC 657* and *Tripat Chaudhary v. Arundhati Sapru Mehra, 2018 SCC OnLine Del 12072*.

9. Learned counsel for appellant further submits that appellant Geeta Arora @ Sonu Punjaban has undergone approximately 05 years 08 months 21 days as on 29.05.2024 and earned remission of about 10 months 26 days. She further points out that appellant has been acquitted in three out of six cases registered against her and has been admitted to bail in remaining three cases. She urges that since disposal of appeal is likely to take some time, appellant be released during pendency of appeal. Reliance is further placed upon *Kashmira Singh v. State of Punjab, 1977 4 SCC 291*; *Omprakash Sahni v. Jai Shankar Chaudhary and Another, 2023 6 SCC 123*; *Lalu Prasad v. State of Jharkhand (Crl. A. 668/2018)*.

10. Learned Counsel for the appellant Sandeep Bedwal reiterates the contentions made on behalf of appellant Geeta Arora @ Sonu Punjaban and submits that the testimony of victim suffers from material contradictions vis-a-vis the statements recorded under Sections 161 and 164 Cr.P.C. He further emphasizes that the name of the appellant Sandeep Bedwal was nowhere mentioned in FIR No. 193/2009 and he has been arrested after a period of about eight years. Further, no Test Identification Parade of the appellant Sandeep Bedwal was conducted. He further submits that allegations of rape are not supported against him. He further points out that appellant has undergone approximately 05 years 08 months 24 days as on



16.11.2023 and earned remission of about 08 months 24 days.

11. On the other hand, applications are vehemently opposed by learned APP for the State along with learned counsel for victim. She submits that offences committed by the appellants are grave and serious in nature as the victim was sold and bought, by a chain of accused, who respectively raped or forced the victim into prostitution. She further submits that appellant Geeta Arora @ Sonu Punjaban is involved in six other cases out of which she is under trial in three cases. The jail conduct of the appellant Geeta Arora @ Sonu Punjaban is stated to be unsatisfactory as 54 punishments were awarded to her during the period 02.01.2014 to 09.05.2024.

12. Learned APP further submits that evidence of victim is trustworthy wherein she corroborated role of each of the appellants and there is no reason to disbelieve her testimony. She points out that appellant Sandeep Bedwal on false pretext of marriage took the victim to the house of one Seema and sold her for the purpose of prostitution.

13. Learned counsel for the complainant/victim further submits that the appellant Sandeep Bedwal was responsible for ruining the life of the victim who was merely 12 years old at the time when she was kidnapped, trafficked and forced into prostitution. He further submits that the victim had to endure immense hardships after being forced into prostitution, sexually assaulted and forcefully administered with drugs. He further contends that appellant himself had refused to participate in TIP proceedings and he was correctly identified by the victim in her testimony.

14. I have given considered thought to the contentions raised.

In *Anil v. State*, CRL.M.(BAIL) 8236/2020 in CRL.A. 729/2019, decided on 04.08.2022 by this Court, after referring to the observations



made by Hon'ble Apex Court in *Kishori Lal v. Rupa*, (2004) 7 SCC 638 : 2004 SCC (Cri) 2021 and *Preet Pal Singh v. State of Uttar Pradesh*, Crl. Appeal No.520/2020 arising out SLP (Crl) No.2102/2019 decided on 14.08.2020, the principles for suspension of sentence were noticed in para 7 as under:

“7. In view of the mandate of Section 389 Cr.P.C., the principles are different in the case of sentences not exceeding three years as well as in case of bailable offences. Also the cases where the person is convicted of offences punishable with death or imprisonment for life or imprisonment for a term not less than ten years, an opportunity is to be given to the public prosecutor under proviso to Section 389(1) Cr.P.C.

The court is obliged to consider whether any cogent grounds have been disclosed and whether there is likelihood of delay in disposal of appeal. Even though a detailed examination of the merits of the case may not be required for suspension of sentence but the exercise of jurisdiction is to be made in judicious manner (based on well settled principles) and for the reasons to be recorded in writing. The difference between grant of bail under Section 439 Cr.P.C. during trial as well as (suspension of sentence) Section 389 Cr.P.C. after conviction is well distinguished and presumption of innocence which is provided at the time of trial does not continue after the conviction of accused.

In view of above, there need to be compelling reasons for suspension of sentence and grant of bail under section 389 Cr.P.C. It is to be ascertained if there is patent infirmity in order of conviction or other cogent reasons exist for release on bail. ”

15. Learned Trial Court observed that testimony of victim has ring of truth since the name of victim was enrolled in electoral roll of Rohtak, Haryana in 2012/2013 and was residing with Rajpal. Further victim stated



that she was not exploited at Rohtak but was earlier used by Satpal for prostitution and also made sexual relations with her. Victim thereafter managed to reach Dwarka and reported at P.S. Najafgarh.

16. Learned Trial Court did not find any merit in contention made on behalf of accused that testimony of victim was not reliable merely because she lodged FIRs against different persons in 2015 which were later on withdrawn.

This Court is of the considered opinion that learned Trial Court correctly posed the question, if the FIRs filed in the year 2016, much after the registration of the present FIR in 2009, have any bearing on the testimony of victim in present case, and observed that on the basis of subsequent events or conduct, it cannot be said that the previous conduct of the said person was also bad. As such, the learned trial court rightly concluded that there is nothing on record to doubt the conduct of victim from 2009 to 2014, when she was kidnapped at mere age of 13 years. There is no reason to presume that appellants have been falsely implicated by the victim who was a minor at relevant time.

17. On the face of record, appellant Sandeep Bedwal is the root cause, for miseries of victim since having gained her trust in good faith, he sold her to Seema. Further categorical allegations have been levelled by Victim against Geeta Arora @ Sonu Punjaban of having forcefully used her for prostitution. The discrepancies in the testimony of victim are natural and cannot be given much credence to infer that appellants have been falsely implicated.

The judgments relied by learned counsel for the appellants are distinguishable on facts, though the proposition of law laid therein is not



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disputed.

In view of evidence on record, cogent reasons recorded by learned Trial Court and heinous nature of offence, no grounds for suspension of sentence are made out.

Applications are accordingly dismissed.

Nothing stated herein shall tantamount to an expression of opinion on the merits of appeal.

A copy of this order be kept in connected appeal.

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Appeals be listed in due course, as per seniority.

(ANOOP KUMAR MENDIRATTA)
JUDGE

SEPTEMBER 10, 2024/v