

DL.
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07.02.2025
bd
Ct.237

**CRA(SB) 190 of 2024
IA No. CRAN 1 of 2025**

**Raj Kumar Das
Vs.
The State of West Bengal & Anr.**

Mr. Imtiaz Ahmed
Mr. Mazhar Hossain Chowdhury
Mrs. Ghazala Firdaus
Ms. Chandrima Debnath
Mr. Sk. Sahidullah
Mr. Mithun Mondal
Md. Arsalan ...for the Appellant/applicant.

Ms. Kaberi Roy ... for the defacto-complainant.

Ms. Ananda Keshari
Ms. Chandreyi Dutta ... for the State.

RE : CRAN 1 of 2025

This is an application where appellant has prayed for suspension of sentence under Section 389(1) of the Code of Criminal Procedure and also for granting bail.

By a judgment and order dated 26th September, 2024 and 27th September, 2024 the Court below has convicted the present appellant for committing offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, (POCSO) and sentence to suffer Rigorous Imprisonment for 3½ (three and a half years) and also to pay the fine. The convict is also sentenced to suffer Rigorous Imprisonment for two years and to pay fine for committing offence under Section 354 of the Indian Penal Code.

Learned counsel appearing on behalf of the appellant submits that total six witnesses were examined during trial, out of which P.W 1 is the victim girl, PW 2 is the mother of the victim

girl, PW 3, is the father of the victim girl, PW 4 is the maternal uncle of the victim girl, PW5 is the Doctor and PW 6 is the Investigating Officer.

He submits that material witnesses are all interested witnesses and there is long standing disputes between the parties in the said slum. Prosecution has not produced any documents to show that the petitioner's house is adjacent to victim's house. He further submits that he has fair chance of success in the instant appeal and unless the sentence imposed upon the appellant is suspended, he will be severely prejudiced.

Learned counsel appearing on behalf of State and the learned counsel appearing on behalf of the victim/opposite party no. 2 raised objection.

Having heard learned counsel appearing on behalf of the respective parties, the execution of the sentence awarded to the appellant herein by the order dated 27th September, 2024 in Special POCSO Case No. 35 of 2021 by the City Sessions Court, Calcutta is hereby suspended till disposal of the appeal.

Learned counsel appearing for the appellant prays for bail.

He submits that the petitioner was along on bail during the trial and no adverse report has been placed by the prosecution regarding his attendance before the court during trial. He further submits that since he has every chance of success in the appeal, he may be released on bail otherwise his interest will be seriously prejudiced.

Learned counsel appearing on behalf of the State and the Opposite party 2 raised objection.

Upon hearing learned counsel appearing on behalf of the parties, I find that the sentence awarded by the Court below is of limited duration and since paper book has not yet been prepared there is hardly any chance of early hearing of the appeal and also relying upon the ratio laid down in Kashmira Singh -vs- State of Punjab,(1977) 4 SCC 291, Kiran Kumar -Vs- State of MP (2001) 9 SCC 211, Bhagwan Ram Shinde Gosai & Ors. (1999) 4 SCC 421 the prayer for bail is allowed.

Accordingly, the appellant may find bail of Rs. 20,000/- with two registered sureties of Rs. 10,000/- each of which one must be local subject to the satisfaction of learned Chief Judicial Magistrate, Calcutta, and also on condition that the appellant shall meet the Officer-in-Charge, Jorasanko Police Station once in a week till further order of this Court.

CRAN 1 of 2025 is accordingly disposed of.

Parties are to act on the server copy of this order duly downloaded from the official Website of this Court.

(Dr. Ajoy Kumar Mukherjee, J.)