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

+ **CRL.A. 549/2020 & CRL.M.(BAIL) 431/2024**

BHAN SINGH @ BHANU @ MONUAppellant
Through: Mr. Krishan Kumar & Mr.
Shivam Bedi, Advs.
Appellant produced
through V.C. from CJ-03.

versus

THE STATE GNCT OF DELHIRespondent
Through: Mr. Sunil Kumar Gautam,
APP for the State.
SI Vikas Rathi, PS Burari.
Mr. Himanshu Anand
Gupta (DHCLSC) with
Mr. Sidharth Barua, Mr.
Shekhar Anand Gupta,
Ms. Navneet Kaur, Mr.
Mike Desai & Mr. Suresh
Verma, Advs. for victim.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **28.05.2025**

1. The present appeal is filed challenging the judgment dated 02.03.2019 (hereafter '**impugned judgment**') and the order on sentence dated 05.03.2019 (hereafter '**impugned order on sentence**') passed by the learned Trial Court in Sessions Case No. 28925/2016 arising out of FIR No. 331/16 registered at Police Station Burari.

2. By the impugned judgment, the learned Trial Court convicted the appellant for the offences under Sections 377/342/323/506 of the Indian Penal Code, 1860 ('**IPC**') and Section 6 of the Protection of Children from Sexual Offences



Act, 2012 ('POCSO Act').

3. By the impugned order on sentence, the appellant was sentenced to undergo rigorous imprisonment for a period of 15 years and to pay a fine of ₹5,000/-, and in default to undergo simple imprisonment for a period of 6 months for the offence under Section 6 of the POCSO Act. For the offence under Section 377 of the IPC, the appellant was sentenced to undergo rigorous imprisonment for a period of 05 years and to pay a fine of ₹5,000/-, and in default to undergo simple imprisonment for a period of 6 months. For the offence under Section 342 of the IPC, the appellant was sentenced to undergo rigorous imprisonment for a period of 6 months, and to pay a fine of ₹500 and in default to undergo simple imprisonment or a period of 1 month. For the offence under Section 323 of the IPC, the appellant was sentenced to undergo rigorous imprisonment for a period of 3 months and to pay a fine of ₹500 and in default to undergo simple imprisonment for a period of 1 month. The appellant was further sentenced to undergo rigorous imprisonment for a period of 5 years and to pay a fine of ₹1,000/- and in default to undergo simple imprisonment for a period of 02 months for the offence under Section 506 of the IPC. All the sentences were directed to run concurrently.

4. The brief facts of the case are that on 08.07.2016 at about 9 PM, when the victim had gone to the appellant's shop for a haircut, the appellant confined the victim in his shop, and forced the victim to perform oral sex with the appellant.

5. The learned counsel for the appellant, at the outset, submits that the appellant does not wish to press the challenge to the impugned judgment, and will be satisfied if his sentence is



commuted to the period already undergone by him.

6. He submits that the minimum sentence under Section 6 of the POCSO Act is ten years, and that the appellant has already undergone ten years and five months in custody. He submits that the appellant belongs to the poor strata of society and is responsible to provide for his old and ailing mother.

7. He submits that the appellant has no other antecedents. He submits that a lenient view be taken considering the fact that the appellant has already undergone more than 10 years out of the total awarded sentence of 15 years. He submits that no purpose would be served by subjecting the appellant to undergo the remaining period in custody.

8. The appellant has been produced by the Jail Authorities from Central Jail-03 through video conferencing. On being asked, he states that he will be satisfied if the conviction is upheld and the sentence is reduced to the period already undergone. The appellant's mother is also present in the Court.

9. The learned Additional Public Prosecutor for the State submits that considering the mitigating circumstances, the State has no objection if the sentence of the appellant is commuted to the period already undergone.

10. I have heard the counsel and perused the record.

11. In the present case, it is relevant to note that the incident dates back to the year 2016 and the appellant has been pursuing the matter for over nine years. It is stated that the appellant belongs to the poor strata of society. It is further stated that the appellant has the responsibility of his old mother.

12. It is pertinent to note that Section 6 of the POCSO Act prescribes a minimum sentence of 10 years. From a perusal of



the nominal roll, it is evident that the appellant has already undergone almost ten years and five months in custody. The appellant is further stated to have no other antecedents.

13. At this juncture, this Court deems it apposite to note that the reformatory purpose of sentencing as well. In the opinion of this Court, interests of justice would be met if the sentence imposed upon the appellant is reduced to the period already undergone by him.

14. In view of the above, without interfering with the conviction of the appellant, his sentence of fifteen years is reduced to the imprisonment already suffered by him.

15. The fine amount (if not already paid) is directed to be deposited within a period of two months from date.

16. Let the proof of deposit of fine amount be submitted with the concerned SHO.

17. The appellant is directed to be released forthwith.

18. The present appeal is disposed of in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

MAY 28, 2025

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