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

+ **CRL.A. 18/2025, CRL.M.(BAIL) 33/2025**

**ZUBER ALI @ SAMEER**

.....Appellant

Through: Mr. Ravi Nayak, Adv.

versus

**STATE NCT OF DELHI THROUGH SHO PS  
MOTI NAGAR**

.....Respondent

Through: Mr. Manoj Pant, APP for the State  
with Mr. Mukesh Kumar Sharma and  
Ms. Shalini Singh, Advs. along with  
SI Kiran Dayal P.S. Moti Nagar.

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**ORDER**  
**12.02.2025**

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1. The present appeal under Section 415(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter '*BNSS*') has been filed on behalf of the appellant, assailing the judgment and order on sentence dated 30.09.2024 and 12.11.2024 respectively, passed by the learned Additional Sessions Judge, Special Court (POCSO)-01 West, Tis Hazari Courts, Delhi (hereafter '*learned Trial Court*'), in CIS-SC No. 57426/2016, arising out of FIR No. registered at Police Station Moti Nagar, Delhi under [Sections 363/366/342/376](#) of the Indian Penal Code, 1860 (hereafter '*IPC*') and [Sections 6 of the Prevention of Children from Sexual Offences Act, 2012](#) (hereafter '*POCSO Act*').



2. Briefly stated, the case of the prosecution is that on 17.02.2014, a missing report was lodged at Police Station Moti Nagar, Delhi by the complainant (father of the victim) alleging that his 14 years old minor daughter had been missing since 07:30 am on 17.02.2014. It was stated by the complainant that his daughter, who was studying in 9<sup>th</sup> class, had left the house for school on 17.02.2014 but she had neither reached the school nor returned home till school hours. The complainant had suspected that her daughter was enticed or taken away by some unknown person. On the said complaint, the present FIR came to be registered. The investigation was carried out by the investigating agency and the charge-sheet was filed against the present accused.

3. Thereafter, the learned Trial Court had framed charges against the accused for the offences punishable under [Sections 363/366/342/376](#) of the IPC and Section 6 of the POCSO Act. After conclusion of trial, the learned Trial Court *vide* judgment dated 30.09.2014 had convicted the accused for the offences under Section 366 and 376 of the IPC and *vide* order on sentence dated 12.11.2024, it had sentenced the present appellant to undergo rigorous imprisonment for a period of seven years for the offence under Section 366 of the IPC and to pay a fine of Rs.15,000/-, and in default of payment of fine to further undergo simple imprisonment for a period of six months. The appellant was also sentenced to undergo rigorous imprisonment for a period of ten years and to pay fine of Rs.1,00,000/- for the offence under Section 376 of the IPC, and in default of payment of fine, to further undergo simple imprisonment for a period of one year.



4. Aggrieved by the aforesaid impugned orders, the present appeal has been preferred on behalf of the appellant.

5. The learned counsel appearing on behalf of the appellant submits, on instructions, that the appellant is not pressing the present appeal on its merits. It is further submitted that the appellant rather prays for leniency since the incident in question had taken place about 11 years back and the appellant has already undergone sentence for more than nine years. It is stated that considering the sentence already undergone by the appellant, his sentence of imprisonment may be reduced to the period already undergone.

6. The learned APP for the State submits that he has no objection if the sentence of the appellant is reduced to the period already undergone by him, and the conviction is upheld.

7. This Court has heard arguments addressed on behalf of both the parties and has gone through the material placed on record.

8. This Court notes that the present case emanates from an FIR registered in the year 2014, pertaining to an incident dated 17.02.2014. Thus, the offence in question had taken place about 11 years ago. The material available on record also shows that the appellant was convicted for the first time for an offence in the present case. It is pointed out that the amendment in Section 376 of the IPC was effected from 11.08.2018 i.e after the commission of the offence in question, which was not retrospective. The minimum sentence to be awarded to a convict under Section 376 of the IPC at that time was seven years.



9. Thus, considering the overall facts and circumstances of the case, and the fact that the appellant has already served sentence of rigorous imprisonment for more than nine years, out of the maximum sentence of ten years awarded to him in the year 2024 and the fact that the conviction is not being challenged, this Court is of the opinion that ends of justice would be met in case the sentence of imprisonment of the appellant is reduced to the period already undergone by him in relation to the present case.

10. The learned counsel appearing for the appellant requests that the fine amount may be reduced to Rs.20,000/-. This Court is not inclined to interfere with the impugned orders as far as the payment of fine is concerned. The fine amount will be paid by the appellant as per the order of the learned Trial Court.

11. Bail bond stands cancelled. Surety stands discharged.

12. The appellant be accordingly released, if not required in any other case.

13. Accordingly, the present appeal stands disposed of in above terms. Pending application also stands disposed of.

14. The order be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**FEBRUARY 12, 2025/A**

*Click here to check corrigendum, if any*