IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP No. 2303 of 2026 in Cr. Appeal (C-DB) No. 73 of 2026

Reserved on: 01.10.2026

Decided on: 30.10.2026

Uploaded on: 30.10.2026

Ravi Kumar. **…Appellant/Applicant.**

Versus

State of H.P. **…Respondent.**

Corum

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Bhupesh Sharma, Judge.

Whether approved for reporting?[1]

For the Applicant. ***Mr.N.S. Chandel, Senior Advocate with Ms.Shwetima Dogra, Advocate, vice Mr.K.S. Gill, Advocate.***

For the Respondent: **Ms.Sharmila Patial, Additional Advocate General.**

Vivek Singh Thakur, Judge

This application has been preferred by applicant/appellant for suspension of his sentence awarded to him on account of his conviction by the Trial Court in Sessions Trial No. 20-ST(P)/7 of 2024,

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment? Yes***

under Section 452 of the Indian Penal Code (for short 'IPC') and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') and has been awarded the following sentences:

Sr. No.	Offence for which convicted	Sentence imposed	Fine imposed	In default of payment of fine, Simple Imprisonment imposed
1.	Section 452 IPC	Rigorous imprisonment for 3 years	Rs.10,000/-	6 months
2.	Section 4 of the POCSO Act	Rigorous imprisonment for 20 years.	Rs.20,000/-	two years

2. Victim at the time of commission of offence was about 17 years old, whereas appellant was 23 years old.

3. Learned counsel for the appellant/applicant has submitted that at the time of recording of FIR, victim had alleged forcible violation of her person by the appellant/applicant, however, in the Court victim resiled from her earlier statement and has stated that on 8.3.2024 nobody came in their house and nothing had happened to her. Victim was subjected to cross-examination after declaring her hostile. Despite thorough cross-examination, she refused to admit even filing of the complaint Ex. P1/PW1.

4. Learned counsel for the applicant/appellant has further submitted that victim has also admitted that on 8.3.2024 she was above 18 years, with the statement that neither accused nor anyone came to meet her.

5. Learned counsel for the applicant has submitted that mother of victim has been examined as PW-2 and her father has been examined as PW-3, but they also did not support the prosecution story and though in cross-examination by Public Prosecutor PW-2 has admitted that when he came back from duty, victim was found weeping in the house and PW-3 has stated that victim had informed her that accused had sexually assaulted her and she was weeping, but PW-3 had also agreed to the suggestion that they filed the complaint because accused raped the victim, but he did not admit the fact of recording of memo Ex. P-2/PW-1. However, both of them have admitted in their cross-examination that on 8.3.2024 victim was above 18 years of age.

6. It has been submitted by learned counsel for the applicant that though as per certificate produced on record age of victim comes about 17 years, but admission on the part of victim as well as her parents that on 8.3.2024 she was of above 18 years of age, there is a strong reason in favour of the applicant, even if considered to be of violation of victim, present case does not fall under the POCSO.

7. It has been further submitted that there is no substantive evidence on record, but the Trial Court has convicted the appellant/applicant on the basis of medical evidence, which was required to be considered to corroborate the substantive evidence only.

8. It has been further pointed out by learned counsel for the appellant that even Trial Court has also observed in order dated 20.5.2026, at the time of awarding sentence, that keeping in view the age of the accused and the fact that sexual intercourse was consensual and in the context of a romantic relationship, minimum sentence to the accused was awarded. However, Trial Court has failed to appreciate that victim as well as her parents had stated that at the time of incident victim was more than 18 years of age, and in view of their admission with regard to age of the victim, coupled with the observation of the Trial Court that the incident was consensual, there is every possibility of acquittal of the applicant/appellant.

9. Learned Additional Advocate General has submitted that it is a case where a minor girl has been found to be victimized by the applicant/applicant, and Trial Court has rightly appreciated the evidence in right perspective and, therefore, keeping in view the provisions of POCSO Act, no case for suspension of sentence is made out.

10. After going through the record and considering the submission, we are of the opinion that an arguable case is made out in favour of the applicant/appellant and it is a fit case where suspension of sentence can be ordered.

11. Accordingly, substantive sentence imposed upon the applicant is ordered to be suspended during the pendency of the appeal, subject to furnishing personal bond in the sum of ₹1,00,000/- with one surety in the like amount to the satisfaction of the Trial Court, undertaking therein to appear in Court as and when directed to do so, and to surrender to serve the remaining sentence in case appeal is dismissed. Applicant shall also not indulge in illegal activity, much less in commission of similar nature of offence and in case breach of this condition, suspension of sentence of the applicant shall be liable to be cancelled.

12. Bail bonds so furnished by the applicant shall be transmitted by the Trial Court to the Registry of this Court for placing the same on record.

13. Any expression of opinion given in this order does not mean an expression of opinion on merits of the case and the same has been given only for the purpose of deciding present application only.

14. Parties are permitted to produce a copy of this order downloaded from the web-page of the High Court of Himachal Pradesh,

before the Trial Court, and the Trial Court shall not insist for production of certified copy of order, rather Trial Court shall verify passing of this order from the Web-page of the High Court.

The application is disposed of in aforesaid terms.

(Vivek Singh Thakur),
Judge.

(Bhupesh Sharma),
Judge.

30th October, 2026
(Keshav)