IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP No. 3488 of 2026 in Cr. Appeal (C-DB) No. 110 of 2026

Decided on: 28.10.2026

Uploaded on: 28.10.2026

Pawan 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.Ajay Kochhar, Senior Advocate alongwith Ms.Preetika Thakur, 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 under Sections 363, 366 of the Indian Penal Code (for short 'IPC') and

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

Section 6 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 363 IPC	Rigorous imprisonment for five years	Rs.10,000/-	Four months
2.	Section 366 IPC	Rigorous imprisonment for seven years.	Rs.10,000/-	Four months
3.	Section 6 of the POCSO Act	Rigorous imprisonment for 20 years.	Rs.20,000/-	One year

2. Learned counsel for the applicant submits that initially the complaint was lodged by father of the victim, who has been examined as PW-2. He had lodged a missing report of the victim and Police traced the victim from her maternal uncle's house and brought her to Police Station, and thereafter her statement under Section 164 Cr.P.C was recorded and in the said statement, it was deposed by the victim that on 02.12.2023, she, at her own, had gone to her maternal uncle's house in village Pewa. However, someone told her father that she had solemnized marriage and therefore her father made a complaint to the Police and Police traced her in

the house of her maternal uncle, and nothing wrong had been done with her by anyone.

3. Learned counsel for the applicant has also referred to the statement of the victim, recorded in the Court as PW-1, wherein she resiled from her previous statement recorded under Section 161 Cr.P.C and did not support the prosecution case at all, rather she re-affirmed the stand taken in her statement recorded under Section 164 Cr.P.C.

4. 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. Further that medical evidence has also not been linked with the statement of victim PW-1, as victim PW-1 has denied that the clothes, which were subjected to chemical analysis, were belonging to her and, therefore, in absence of substantive evidence, conviction, on the basis of medical evidence, without any link and in absence of substantive evidence, is liable to be interfered with.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

28th October, 2026
(Keshav)