Anil Kumar vs. State of H.P.

Cr. Appeal (C-SB) No. 243 of 2026
Reserved on: 14.10.2026

28.10.2026 Present: Mr Lakshay Parihar, Advocate, for the appellant.

Mr Jitender Sharma, Additional Advocate General, for the respondent-State.

Cr. MP No. 4162 of 2026

The appellant/applicant has filed the present application for suspension of the sentence imposed by learned Special Judge, Hamirpur, H.P. (learned Trial Court) on 14.7.2026, vide which he was sentenced to undergo simple imprisonment for one year, pay a fine of ₹1,000/- (₹ One Thousand) and in default of payment of fine to undergo simple imprisonment for two months for the commission of an offence punishable under Section 506 of IPC; to undergo simple imprisonment for three years, pay a fine of ₹10,000/- (₹ Ten Thousand) and in default of payment of fine to undergo simple imprisonment for three months for the commission of an offence punishable under Section 12 of POCSO Act; to undergo simple imprisonment for three years, pay a fine of ₹20,000/- (₹ Twenty Thousand) and in default of payment of fine to undergo simple imprisonment for three months for the commission of an offence punishable under Section 67 of IT Act; and to undergo simple imprisonment for five years, pay a fine of

₹30,000/- (₹ Thirty Thousand) and in default of payment of fine to undergo simple imprisonment for four months for the commission of an offence punishable under Section 67-A of IT Act.

It has been submitted that the applicant has a good arguable case in his favour, and his appeal is likely to be allowed in all eventualities. The appeal is not likely to be taken up for hearing soon; hence, it has been prayed that the present application be allowed and the sentence imposed by the learned Trial Court be suspended.

The application is opposed by filing a reply asserting that the prosecution had proved its case beyond reasonable doubt and the applicant does not have any arguable case in his favour. The appeal is likely to be dismissed; hence, it was prayed that the present application be dismissed.

I have heard the learned counsel for the parties and have gone through the record carefully.

The judgment of the learned Trial Court shows that the victim was studying in 10+2 class at the time of the incident. The prosecution proved the date of birth certificate of the victim (Ext. P1/PW-10) and a copy of the Pariwar Register (Ext. P2/PW-10), which revealed the date of birth as 05.06.2005.

The judgment does not show that a copy of the Matriculation certificate was produced by the prosecution to establish the victim's minority.

A Division Bench of this Court held in ***V. versus State of H.P., 2024 HHC 13464***, that where the matriculation certificate is available, only that certificate and no other proof of birth is admissible to prove the victim's minority. *Prima facie*, the conviction of the accused under the POCSO Act is vulnerable in the absence of the matriculation certificate, and the applicant has an arguable case in his favour.

In view of the above, the present application is allowed, and the substantive sentence of imprisonment awarded by the learned Trial Court is suspended subject to deposit of fine and furnishing of personal and surety bonds in the sum of ₹50,000/- each, undertaking to appear before this Court as and when directed to do so and surrender before the learned Trial Court in case of dismissal of the appeal.

The bail bonds so furnished by the applicant/appellant be transmitted to this Court for record.

The present application stands disposed of.

The observations made hereinabove shall remain confined only to the disposal of the present

application and will have no bearing on the merits of the appeal.

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The record has been received. List the matter(s) for hearing in due course.

(Rakesh Kainthla)
Judge

28th October, 2026
(Chander)