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

+ **CRL.A. 91/2021**

BABLOO

..... Appellant

Through: Mr. Nitin Saluja, Adv. DHCLSC with
Ms. Shivani Luthra Lohiya, Ms.
Poonam Dangi, Mr. Saahil Mongia,
Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Ajay Vikram Singh, APP for
State with W/SI Deepika, PS Kotla
Mubarakpur
Ms. Aishwarya Rao, Adv. for
prosecutrix

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **24.03.2023**

CRL.M.(BAIL) 1429/2022

1. This is an application seeking suspension of sentence of the order dated 23.11.2020 passed by learned ASJ, Special Court (POCSO Act), South East-District, Saket Court.
2. As per the impugned order, the appellant was convicted for offences u/s 376(2)(n) and Section 6 of POCSO Act and sentenced to 12 years rigorous imprisonment and a fine of Rs. 10,000/-.
3. As per the Nominal Roll dated 13.03.2023, the appellant has undergone 3 years 1 month 7 days, has a remission of 6 months 27 days and an unexpired portion of 8 years 3 months 26 days.

4. In the present case, the facts are peculiar. The prosecutrix was 17 years 4 months when she eloped with the appellant. Thereafter, they had a child who is in the care and custody of the prosecutrix. The prosecutrix in her 164 statement as well as her evidence has categorically stated that she ran away with the appellant out of her own free will and that she is in love with him and prayed that the appellant be released on bail.

5. In her cross-examination, the prosecutrix further stated that she was the one who misrepresented her age to the appellant to state that she was major at the time of running away with the appellant. These are factums which persuade me to suspend the sentence of the appellant even though the appellant has not undergone 50% of the awarded sentence.

6. The evidence, the 164 statement and the cross of the prosecutrix seem to suggest that it was the prosecutrix who had gone with the appellant by misrepresenting her age and showing herself to be a major.

7. To uphold the judgment or to set it aside would require detailed hearing and appreciation of facts which shall be taken up when the appeal is finally heard.

8. For the above reasons, the sentence of the appellant is suspended during the pendency of the appeal on the following terms and conditions:

- i. The appellant shall furnish a personal bond and surety bond in the sum of Rs. 10,000/- each, to the satisfaction of the Registrar Criminal;
- ii. The appellant shall provide his mobile number to the Investigating Officer (IO) concerned, which shall be kept in working condition at all times. The appellant shall not switch off, or change the same without prior intimation to the IO concerned, during the period of

suspension of sentence;

- iii. The appellant will not interfere in the life of the prosecutrix and the minor child until and unless the prosecutrix so desires and permit;
 - iv. The appellant will furnish his permanent address to the IO and in case he changes his address, he will inform the IO concerned and this Court also;
 - v. The appellant shall appear before the Court as and when the appeal is taken up for hearing;
 - vi. The appellant shall not leave the country and if the appellant has a passport, he shall surrender the same to the Jail Superintendent;
 - vii. The appellant shall not be in the vicinity of the prosecutrix or any of her family members;
 - viii. The appellant shall try and contribute some amount towards the upbringing of the minor child;
 - ix. The appellant shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in pending cases, if any.
9. The compensation of Rs. 4 lakhs as directed in the impugned order shall be paid to the prosecutrix immediately and not later than 2 weeks from today by DSLSA. Ms. Rao, learned counsel shall verify the same in case the same is not paid.
10. The DSLSA will look into the impugned order and verify if additional compensation is payable to the prosecutrix. If the same is payable, the same shall be paid expeditiously.
11. With these directions, the application is disposed of.

12. List the appeal in due course.
13. The written submission of the prosecutrix is taken on record.

Dasti

JASMEET SINGH, J

MARCH 24, 2023/dm

Click here to check corrigendum, if any

