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

+ CRL.A. 198/2020

BABU LAL

..... Appellant

Through: Mr. Adit S. Pujari, Ms. Aparajita  
Sinha, Advs.

versus

STATE

..... Respondent

Through: Ms. Astha, Adv. for Complainant  
SI Maneeta, PS Neb Sarai

**CORAM:**

**HON'BLE MR. JUSTICE JASMEET SINGH**

**ORDER**

**01.08.2022**

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**CRL.A. 198/2020**

The present appeal has been filed seeking setting aside of the impugned judgment dated 04.12.2019 and order of sentence dated 16.12.2019 passed by the learned ASJ-01, Special Court (POCSO), South District, Saket Courts, Delhi in SC No. 7116/2016 in the FIR No. 624/2014 registered at PS Neb Sarai under Section 376/506 IPC. The appeal has been admitted for hearing on 18.02.2020 and shall be taken up on its own turn.

**CRL.M.(BAIL) 265/2021-SUSPENSION OF SENTENCE**

The appellant, vide impugned judgment dated 04.12.2019 and order dated 16.12.2019 had been sentenced for 10 years' rigorous imprisonment and fine.

As per the Nominal Roll filed on 28.02.2021, the appellant had already undergone a sentence of 7 years 4 months and 25 days as on

10.03.2022, and has a remission of 5 months 21 days leaving an unexpired portion of 2 years 1 months 14 days of the sentence.

Till today, the applicant has further undergone a period of more than 4 months leaving the unexpired portion as 1 year and about 9 months.

The appeal is of the year 2020 and has been admitted on 18.02.2020 and there is no reasonable chance that the appeal would be taken up for hearing in the near future.

For the reasons stated above, I am of the view that the sentence of the applicant needs to be suspended as he has undergone a substantial portion of his sentence.

The allegations against the appellant are of Section 6 POCSO Act and Section 376/506 IPC (against his own daughter).

I am informed by Ms. Astha, learned counsel for the DHCLSC that the appellant and the mother of the victim stay in Rajasthan.

There are chances that if the sentence of the appellant is suspended, he may visit his wife and daughter at their native place which cannot be permitted. However, at the same time, if the sentence of the appellant is not suspended, the entire sentence of the appellant may be undergone without the appeal being heard.

In this view of the matter, it is directed that the sentence of the appellant be suspended during the pendency of the appeal subject to the following conditions:-

- i. The appellant shall furnish a personal bond with one local surety in the sum of Rs. 20,000/- to the satisfaction of the Trial Court;
- ii. He shall appear before the Court as and when the appeal is taken up for hearing;

- iii. The appellant shall not visit the State of Rajasthan under any circumstances whatsoever;
- iv. The appellant shall not connect with or be in touch with his wife or the prosecutrix;
- v. The appellant shall provide his mobile number to the Investigating Officer (IO) concerned- at the time of release, 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;
- vi. He shall report to the local Police Station on the first Monday of every month. He shall not be forced to sit for more than half an hour on any such occasion;
- vii. In case he changes his address, he will inform the IO concerned and this Court also;
- viii. The appellant shall not leave the country during the bail period and surrender his passport, if any, at the time of release before the I.O., if he has one;
- ix. The appellant shall not indulge in any criminal activity during the bail period;
- x. The appellant shall not communicate with, or come into contact with any of the prosecution witnesses, or any member of the victim's family.

The application for suspension is hereby allowed.

Mr. Pujari, learned counsel for the appellant has handed over some suggested guidelines in view of the fact that many of the victims in POCSO

cases are being made to appear physically or virtually in Court at the time of hearing of the bail applications.

This has led to a situation where the victims are being forced not only potentially interact with the accused person, but also be present in Court when the arguments regarding the offence are being taken up for hearing.

The psychological impact on a POCSO victim being present in Court is immensely grave as the arguments vary from allegations, accusations, doubting integrity, character etc. The prosecutrix/ victim is forced to be present in the Court with the accused that is the same person who allegedly has violated her.

It is in the interest of the victim that she is not traumatised again by re-living the said incident/ Court proceedings which could be triggering for her.

In this view of the matter, the suggested practice directions be sent to the Member Secretary, DHCLSC and DSLSA for their inputs.

The suggested guidelines handed over today in Court have been taken on record.

List for directions on 30.08.2022.

**JASMEET SINGH, J**

**AUGUST 1, 2022 / (MS)**

*Click here to check corrigendum, if any*