

**CRM-4418-2018 in
CRA-D-214-DB-2017**

Subhash Chander vs. State of Punjab

Present:- Mr. Anoop Verma, Advocate,
for the applicant-appellant.

Mr. Navneet Singh, Sr. DAG, Punjab.

Application has been filed under Section 389 Cr.P.C. seeking suspension of sentence of the applicant-appellant namely Subhash Chander. As per the custody certificate dated 26.09.2022 filed today, actual undergone period of the applicant-appellant is 5 years, 4 months and 28 days out of the 14 years' imprisonment awarded to him under Section 376 read with Section 363 IPC and other provisions of IPC and the Prevention of Children from Sexual Offences Act, 2012.

Counsel has submitted that the defence as such was taken regarding the age of the victim and that she was not a minor. It is submitted that there is no certificate issued by the Registrar, Births & Deaths and the reliance as such upon the school certificate would be a debatable issue. It is further pointed out that it is a case of consent as they were neighbours. It is also pointed out there is also some defence of money lending and that there was no injury found on the private parts of the victim and the allegation that she had been bodily lifted as such and rape had been committed would also be a subject matter of debate whether the sole accused could have done so. We are also keeping into consideration that the applicant-appellant was 25 years of age at the time when the incident happened.

On 19.09.2022, we had asked the State to verify whether the

victim had got married or was still living in the neighbourhood of the applicant-appellant.

It has now been confirmed by the State, on instructions from ASI Nirmal Singh, that she had got married on 12.05.2022 to one Ram Rattan and is not residing in the neighbourhood any more.

Keeping in view the period undergone and that debatable issues would arise at the time of hearing of the appeal and the fact that the appeal is not likely to be heard in near future, we are of the considered opinion that the applicant-appellant is entitled for the benefit of suspension of sentence.

Accordingly, the application for suspension of sentence of the applicant-appellant is allowed. Remaining sentence of the applicant-appellant shall remain suspended during the pendency of the appeal. He be released on bail on furnishing of bail bonds/surety bonds to the satisfaction of the CJM/Illaq Magistrate, Fazilka.

27.09.2022
shivani

(G.S. SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE