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

+ **CRL.A. 469/2025 & CRL.M.(BAIL) 805/2025**

DEEPAK SAIN

.....Appellant

Through: Mr. Ujwal Ghai and Mr.
Arpit Sharma, Advs.

versus

STATE (NCT OF DELHI) & ANR.Respondents

Through: Ms. Kiran Bairwa, APP
for the State with SI Akash
Kumar, PS Bhajan Pura.
Ms. Priyanka Sinha, Adv.
for the victim.
Victim (through VC)
Father of the victim in
person.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **21.08.2025**

1. The present appeal is filed challenging the judgment dated 15.02.2025 (hereafter '**impugned judgment**') and the order on sentence dated 17.03.2025 (hereafter '**impugned order on sentence**'), passed by the learned Trial Court in Sessions Case No. 261/2019 arising out of FIR No. 562/2015 registered at Police Station Bhajan Pura.

2. By the impugned judgment, the learned Trial Court convicted the appellant for the offences under Section 12 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO Act**') and Sections 354A, 354D and 506 of the Indian Penal Code, 1860 ('**IPC**').



3. By the impugned order on sentence, the appellant was sentenced to undergo rigorous imprisonment for a period of 3 months and to pay a fine of ₹20,000/- for the offence under Section 12 of POCSO Act, and in default of payment of fine, to undergo rigorous imprisonment for a period of 10 days. For the offence under Section 506 of the IPC, the appellant was sentenced to undergo rigorous imprisonment for a period of 3 months. Both the sentences were directed to run concurrently.

4. It is the case of the prosecution that the victim, who was studying in 10th class, used to go to school by bus and her drop was at the Bhajanpura market. It was alleged that there was a bag shop near the stop of the victim, from where, the appellant used to make dirty gestures. On 01.05.2015, when the mother of the victim was late, on seeing that the victim was alone, the appellant caught her hand and threatened to hit her with a bottle or throw something at her. On the next day, the mother of the victim went with the victim to the shop to confront the appellant, but he ran away. On 03.05.2015, when the victim went to the market, the appellant stopped her, caught hold of her hand and asked her as to why she had complained at her home. The victim managed to wriggle free from the appellant's grasp and called her parents. Pursuant to the same, a PCR call was made and the appellant was identified and handed over to the police.

5. In the present case, the appellant has not pressed the challenge to the impugned judgment of conviction, and it is stated that the appellant will be satisfied if his sentence is reduced to the period already undergone by him.

6. Considering the same, on 09.04.2025, this Court had suspended the sentence of the appellant till the next date of



hearing, and the interim order has been continued since then.

7. An affidavit indicating the mitigating circumstances has also been filed.

8. It is submitted on behalf of the appellant that a lenient view may be taken considering that the appellant has undergone incarceration for a period of 15 days during the course of investigation and the alleged incident dates back the year 2015, when the appellant was only 18 years old.

9. It is further submitted that the appellant is working at a call centre and he bears the responsibility for supporting his family financially, along with his siblings.

10. It is submitted that the appellant and his parents have also apologised to the victim for the appellant's conduct and he will face tremendous stigma if he is subjected to undergo the remaining sentence.

11. The learned Additional Public Prosecutor for the State submits that considering the mitigating circumstances, the State has no objection if the sentence of the appellant is commuted to the period already undergone.

12. The victim is present through video conference and her father is present in Court.

13. The learned counsel for the victim submits that although the victim has no objection to the sentence of the appellant being reduced, however, the victim and her family apprehends that the appellant may try to contact her in the future.

14. She however fairly submits that the appellant has not attempted to contact the victim or her family in the intervening decade after registration of the FIR, and even after suspension of the appellant's sentence.



15. The learned counsel for the appellant submits that the appellant does not intend to establish contact with the victim in the future and he has mentioned the same in his duly sworn affidavit as well. He submits that the appellant is bound down to the said undertaking.

16. I have heard the counsel and perused the record.

17. It is stated that the appellant has spent 15 days in custody as an undertrial and he has been pursuing the case since the year 2015 for around ten years. As pointed out, the appellant was 18 years of age at the time of the incident and he is responsible for supporting his family financially.

18. Taking note of the aforesaid mitigating circumstances, the learned Trial Court has also taken a lenient view and awarded a sentence of only three months to the appellant. Although this Court is cognizant of the gravity of the offences for which the appellant has been convicted, however, this Court cannot turn a blind eye to the reformatory and rehabilitative purpose of the imprisonment as well. As stated, the appellant has already integrated in society and he has not indulged in similar behaviour after the alleged incident.

19. If the appellant is subjected to undergo his remaining sentence, after more than a decade, the same would result in disgrace to the appellant and uproot him from the society.

20. The State as well as then victim have expressed no objection to the reduction of the appellant's sentence. The only impediment against reducing the appellant's sentence is that certain apprehensions have been expressed by the victim, however, considering that the appellant has not attempted to contact the victim in the past decade and he has further



undertaken to not contact the victim in the future, it would not be fair to subject the appellant to undergo the remaining sentence merely on account of mere apprehension that is borne out of the trauma of the incident.

21. Thus. In the opinion of this Court, interests of justice would be met if the sentence imposed upon the appellant is reduced to the period already undergone by him, subject to his undertaking of not establishing contact with the victim or her family members.

22. In view of the above, without interfering with the conviction of the appellant, his sentence of three months is reduced to the imprisonment already suffered by him.

23. The fine amount, if not already paid, is directed to be deposited within a period of two months from date.

24. Let the proof of deposit of fine amount be submitted with the concerned SHO.

18. The present appeal is disposed of in the aforesaid terms. Pending application also stands disposed of.

AMIT MAHAJAN, J

AUGUST 21, 2025