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**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
 JODHPUR**

D.B. Criminal Misc Suspension Of Sentence Application (Appeal)  
 No. 710/2021

- (1) Pragya Prateek Shukla S/o Sh. Shyam Prakash, age About 39 Years  
 (2) Priya Shukla W/o Sh. Pragya Prateek Shukla, age 33 years

Both the appellants are residents of Nagesh (E), Police Station Sadar, Tehsil and District Hardoi (Uttar Pradesh)

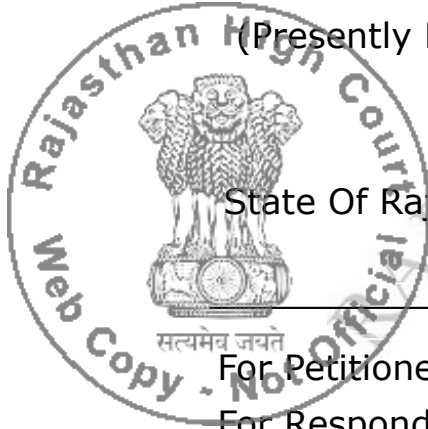
(Presently Lodged in Central Jail, Bikaner).

----Petitioner

Versus

State Of Rajasthan, Through PP

----Respondent



For Petitioner(s) : Mr. Vineet Jain, through VC  
 For Respondent(s) : Mr. J.S. Choudhary, Senior Advocate, Special Public Prosecutor, assisted by Mr. Pradeep Choudhary, through VC Ms. Disha Wadekar and Mr. Shreyansh Mardia, for the complainant, through VC

**HON'BLE MR. JUSTICE SANDEEP MEHTA  
 HON'BLE MR. JUSTICE VINOD KUMAR BHARWANI**

**Order**

**12/01/2022**

The instant application for suspension of sentence under Section 389 CrPC has been preferred on behalf of the appellant-applicants (1) Pragya Prateek Shukla S/o Shyam Prakash and (2) Priya Shukla W/o Pragya Prateek Shukla, who have been convicted and sentenced as below vide the judgment dated 08.10.2021 passed by the learned Special Judge, POCSO Act Cases and the Commission for Protection of Child Rights Act, 2005, Cases, Bikaner in Sessions Case No.68/2018 :

Offence convicted	for	which	Sentence and fine awarded



Section 305 IPC	Six years' rigorous imprisonment alongwith a fine of Rs.10,000/- and in default of payment of fine, further to undergo six months' additional rigorous imprisonment
Section 21 of the POCSO Act	One year's rigorous imprisonment alongwith a fine of Rs.5,000/- and in default of payment of fine, further to undergo one month's additional rigorous imprisonment
Section 3(2)(vi) of the SC/ST Act	Two years' rigorous imprisonment alongwith a fine of Rs.5,000/- and in default of payment of fine, further to undergo one month's additional rigorous imprisonment



Learned Public Prosecutor has filed reply to the application for suspension of sentence.

Learned counsel Mr. Vineet Jain, representing the appellant-applicants, vehemently and fervently contends that the conviction of the appellant-applicants as recorded by the trial court for the above offences is absolutely unwarranted. The allegation set out in the FIR (Ex.P/2) that the appellant Priya Shukla pushed the victim Mst. 'D' into the room of the PTI Vijendra Singh was not found proved by the trial court vide findings recorded in para No.94 of the impugned judgment. The trial court convicted the appellants by recording a finding that the appellants herein abetted the victim to commit suicide. In this regard, the trial court relied upon the letters Ex.P/55 and Ex.P/56 written by the accused Vijendra Singh and the deceased respectively. Mr. Jain submits that the appellant Pragya Prateek Shukla was working as a Faculty Member in the BSTC college whereas, the appellant Priya Shukla was the Warden in the hostel, where the deceased was staying as a boarder. She had just returned from her village. The other girls in the hostel informed



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the appellant Pragma regarding the victim having gone missing, on which, an extensive search was made in presence of the other girls staying in the hostel and the nurse. Ultimately, the victim was found present inside the room of the PTI Vijendra Singh. In this background, it was absolutely natural for the persons incharge to have made enquiries to find out the reason for this unnatural behaviour and in this process, the letters Ex.P/55 and Ex.P/56 were voluntarily written by the co-accused Vijendra Singh and the victim. There is no element of confession/admission in either of these letters and thus, it cannot be held that the appellants herein coerced the victim to write a confessional letter, which can be considered as a circumstance which instigated the girl to commit suicide. Mr. Jain further submitted that as the incident took place in the odd hours of the night, it would be too harsh to expect that the appellants would immediately realize that the victim was a minor and thus, the matter should be forthwith reported to the authorities. Neither the victim nor the co-accused Vijendra Singh made any disclosure regarding having indulged in any sexual relations and thus, they were simply advised in routine to write down the gist of the circumstances in which they were found together and in this process, the letters Ex.P/55 and Ex.P/56 were voluntarily written by the co-accused Vijendra Singh and the victim Mst. 'D' and as such, conviction of the appellants for the offences punishable under Section 305 IPC and Section 21 of the POCSO Act is totally unjustified. Mr. Jain further submits that after the process of bonafide enquiry had been completed, the victim went back to sleep in her room. In the morning, she woke up and then jumped into the water body, thereby ending her life. There is no evidence to show that the appellants were in contact



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with the victim during this period. There is no evidence to show that the appellants were conscious of the fact that the girl was minor on the date of incident. He further contended that the appellants were on bail during the course of trial and they did not misuse the liberty so granted to them. Hearing of the appeal is bound to consume time. On these grounds, Mr. Jain implored the court to accept the application for suspension of sentences and direct enlargement of the appellants on bail during the pendency of the appeal.

Per contra, learned Special Public Prosecutor Mr. J.S. Choudhary, Sr. Advocate, Ms. Disha Wadekar and Mr. Shreyansh Mardia, representing the complainant, vehemently and fervently opposed the submissions of Mr. Jain and contended that the appellants were in a position of power. No sooner the minor victim was found in the room of the PTI Vijendra Singh, the appellants should have reported the matter to the police, rather than taking the things in their own hands. The victim was pressurized/coerced to write the confession/admission (Ex.P/56). They further urged that rather than making an enquiry from the victim on their own, the appellants were under a lawful obligation to forthwith report the matter to the police because a minor girl staying in the hostel was found in the room of the PTI. By failing to do so, the appellants acted in gross contravention of the procedure provided under Chapter V of the POCSO Act. In extracting the confession Ex.P/56, the appellants coerced the girl to such an extent that she was left with only two options, either to have her image tarnished in the eyes of the society or to end her own life. The minor girl became disconsolate and took the extreme step of ending her life. Thus, the appellants were rightly



held responsible for instigating the victim to commit suicide. They thus, urged that the appellants do not deserve indulgence of bail in this case.

We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material available on record. It would be premature for this Court to record any opinion on the issue whether or not the appellants were aware regarding the victim being below 18 years of age, as it would be subject matter of extensive appreciation of evidence and any observation by this court on this aspect of the case at this stage may prejudice the outcome of the appeal. However, the fact remains that the absence of the victim in the dormitory was reported to the appellant Priya Shukla, the hostel warden, whereafter, a search was made in the natural course of events and the girl was found inside the room of the PTI Vijendra Singh with the door bolted. We are of the view that there was nothing abnormal/unnatural for the hostel warden and her husband, a teacher in the college, in which, the victim was studying to have made enquiries as to the circumstances in which, the girl had been found inside the room of the PTI in the dead of the night. It appears that at that stage, neither the co-accused Vijendra Singh nor the girl made any admission regarding they being involved in any kind of sexual relations. Prime facie, other than an admission that she was wrong in going to the room of the PTI Vijendra Singh, there is hardly anything in the letter Ex.P/56, which can be considered enough to brand it to be an admission by the victim. In this background, we are of the firm view that the applicants have an arguable case that they did not pressurize the girl nor did they try to extract any confession/admission from her. Whether or



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not the circumstances, which came to light in the dead of the night on 29.03.2016 warranted immediate reporting of the matter to the police would also require elaborate consideration at the stage of final disposal of the appeal. Incidents are not uncommon where after deliberations, it is decided in a bonafide manner not to report such matters to the police, lest the reputation of the girl is tarnished. This aspect gains more importance because the hostel warden/higher ups would definitely have preferred to deliberate with the parents of the girl before taking any such action.

The appellants were on bail during the course of trial. There is no allegation whatsoever that they misused the liberty so granted to them by the court during the course of the trial or that they might do so if released on bail during pendency of the appeal. There is no likelihood of the appellants absconding in the event of their being released on bail. Hearing of the appeal is bound to consume time.

In this background and having regard to the entirety of the facts and circumstances of the case, this court is of the view that it is a fit case for grant of indulgence of bail to the appellant-applicants by suspending the sentences awarded to them by the trial court during the pendency of the appeal.

Accordingly, the application for suspension of sentences filed under Section 389 Cr.P.C. is allowed and it is ordered that the sentences passed by the learned Special Judge, POCSO Act Cases and the Commission for Protection of Child Rights Act, 2005, Cases, Bikaner vide judgment dated 08.10.2021 in Sessions Case No.68/2018 against the appellant-applicants (1) Pragya Prateek Shukla S/o Shyam Prakash and (2) Priya Shukla W/o Pragya Prateek Shukla shall remain suspended till final disposal of the



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aforesaid appeal and they shall be released on bail, provided each of them executes a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the learned trial Judge for their appearance in this court on 14.02.2022 and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

1. That they will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if any of the applicant changes the place of residence, he/she will give in writing his/her changed address to the trial Court as well as to the counsel in the High Court.
3. Similarly, if the sureties change their address(s), they will give in writing their changed address to the trial Court.

The learned trial Court shall keep the record of attendance of the accused-applicants in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicants were tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the trial court. In case any of the accused applicants does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

**(VINOD KUMAR BHARWANI),J**

**(SANDEEP MEHTA),J**

53-Pramod/Devesh/-