IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on:23.06.2025

\+ **CRL.A. 688/2023 & CRL.M.(BAIL) 1318/2023**

DINESH .....Appellant

versus

STATE .....Respondent

Advocates who appeared in this case:

For the Appellant : Mr. Harsh Prabhakar, Adv. (DHCLSC) with Mr. Dhruv Chaudhary and Mr. Shubham Sourav, Advs.

For the Respondent : Mr. Sunil Kumar Gautam, APP for the State with SI Rajni Kant, PS Kirti Nagar.
Mr. Rohan J. Alva, Adv. (Amicus Curiae) for the victim with Mr. Anant Sanghi, Adv.

CORAM
HON'BLE MR JUSTICE AMIT MAHAJAN

JUDGMENT

1. The present appeal is filed against the judgment dated 16.05.2023 (hereafter '**impugned judgment**') and order on sentence dated 31.07.2023 (hereafter '**impugned order on sentence**') passed by the learned Additional Sessions Judge ('ASJ'), Tis Hazari Courts, Delhi in New SC. No. 664/2017 arising out of FIR No. 321/2017 ('**FIR**').

2. By the impugned judgment, the learned ASJ convicted the appellant for the offences under Sections 506 of the Indian Penal Code, 1860 ('**IPC**') and Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO Act**'). By the impugned order on sentence, the learned ASJ sentenced the appellant to undergo rigorous imprisonment for a period of 15 years and to pay a fine for a sum of ₹10,000/- for the commission of the offence under Section 6 of the POCSO Act.

3. The FIR was registered on a complaint given by the father of the victim. The complainant resided with the widow of his brother 'Ms. G' and his children. It is alleged that on 17.05.2017 at about 5:00 PM when Ms. G returned home from work, she saw blood on the back side of the pajama of the victim. Upon asking, the victim alleged that while he was taking a bath, the appellant who resided in the adjacent jhuggi caught hold of the victim and took him to his jhuggi. It is alleged that thereafter the appellant forcefully inserted his penis in the anus of the victim and also threatened him of dire consequences should the victim disclose about the incident to anyone. Thereafter, Ms. G telephoned the complainant who then came home and made a call at 100 number.

4. The learned ASJ, by the impugned judgment, convicted the appellant of the offences under Section 506 of the IPC and Section 6 of the POCSO Act. It was noted that the victim boy was around 6 years old at the time when the incident took place. The learned ASJ took into consideration the testimony of the victim who stated that on

the day of the incident, he had gone to the house of the appellant to take a bath. The victim categorically alleged that the appellant had pulled down his pants as well as that of the victim, and had inserted his penis in the anus of the victim. The victim further deposed that as a consequence of the same, he experienced pain and also started bleeding. He further deposed that the appellant had thereafter washed the victim's underwear. The learned ASJ noted that the testimony of the victim was also corroborated by his father and aunt though they were not eye witnesses to the incident. It was noted that nothing emerged in the cross-examination of the said witnesses so as to shake the story of the prosecution.

5. The learned ASJ noted that the FSL report indicated that the DNA generated from the blood and semen stains from the clothing of the victim matched with the DNA generated from the blood and other samples of the appellant. It was noted that the author of the FSL report, in her cross examination, stated that the samples in the present case had not degraded or putrefied and further denied the suggestion that the genotype analysis may contain error.

6. It was noted that the victim was a young boy aged 5 ½ years at the time of the commission of the offence, and that minor contradictions in the statement of the victim could be ignored. It was noted that mere absence of external injury in the MLC cannot be a ground to discard the testimony of the victim. It was noted that while the appellant, in his defence, had stated that he had been falsely implicated on account of a quarrel with the victim's father, he had not

led any evidence to corroborate his contentions. It was further noted that in his cross-examination, the victim denied about the existence of any dispute between his family and that of the appellant. It was noted that the appellant had failed to rebut the presumption of guilt raised against him as per Section 29 of the POCSO Act. Consequently, the learned ASJ convicted the appellant of the offences under Section 506 of the IPC and Section 6 of the POCSO Act.

Submissions on behalf of the appellant

7. The learned counsel for the appellant submitted that the learned ASJ erred in convicting the appellant for the offences under Section 506 of the IPC and Section 6 of the POCSO Act. He submitted that there are significant inconsistencies in regard to the apparel worn by the victim when the incident took place. He submitted on being re-examined by the learned Additional Public Prosecutor on the specific point of the apparel worn by the victim at the time when the incident took place, the victim unequivocally stated that he was wearing '*jeans*'. He submitted that on the contrary, Ms. G stated that the victim was wearing a '*night suit of white colour*.'

8. He submitted that the complainant, on the other hand, identified a pajama being white, red and green coloured as the one worn by the victim when the offence was committed. He submitted that the FSL described the piece of clothing as a '*lower – undergarment of the victim'*. He submitted that the apparel worn by the victim assumes significance considering that the victim was not made to identify the clothing items that were sent for scientific analysis. He submitted that

this vital omission goes to the root of the matter thereby rendering the outcome of the forensic analysis meaningless.

9. He submitted that the medical examination of the appellant took place at 11:50 PM on 17.09.2017 after which the biological specimens were collected from Dr. Shahid (not examined). He submitted that Police Store Room Register (*Malkhana*) indicates that the specimens were deposited on the same day, that is, on 17.09.2017 itself. He submitted that it is highly improbable that in a span of merely 10 minutes the medical examination of the appellant was conducted and the specimens were also deposited in the Malkhana. He submitted that the same cast a serious doubt on the integrity of the record and is indicative of tampering.

10. He submitted that the possibility of tampering is further heightened by the delay in dispatching the case property for forensic analysis. He submitted that while the specimens were allegedly collected on 17.09.2017, the same were sent to FSL only on 18.10.2017 after an inordinate and unexplained delay of one month.

11. He submitted that the victim claimed that he bled profusely after the alleged act took place, however, no incriminating material such as blood-stained clothing or any trace of evidence was recovered from the residence of the appellant.

12. He submitted that the very first account of the incident furnished by the victim is one recorded by the attending medical professionals at the hospital. He submitted that at that time, despite knowing the appellant, the identity of the appellant as the perpetrator

was not mentioned. He submitted that the non-disclosure of the identity of the appellant casts a serious doubt on the case of the prosecution.

13. He submitted that the testimonies of the family members of the victim are mutually contradictory and self-destructive. He submitted that severe contradictions emerge in the version of the prosecution witnesses. He submitted that as per the deposition of the victim, he had gone to the house of the appellant to take a bath. He submitted that on the contrary, Ms. G/PW-3 stated that the appellant had taken the victim to his house.

14. He submitted that as per the evidence of the victim, his father/complainant had come home in the afternoon, however, at such time, the victim deposed that he had not disclosed anything to his father out of fear. He submitted that as per the testimony of the complainant/PW-2 himself, he had come home in the evening after receiving a call about the said incident from Ms. G/PW-3. He submitted that Ms. G/PW-3 stated that the complainant had come home at 8:00 PM after receiving a call from her.

15. He submitted that the mucosal tear in the frenulum region of the appellant cannot be pressed to ascertain the culpability of the appellant since the same was not put to the appellant in terms of Section 313 of Code of Criminal Procedure, 1973.

16. He submitted that the MLC of the victim indicates that no fresh injury was caused to the victim. He submitted that the same contradicted the evidence given by the victim who deposed that the

sexual assault had led to the bleeding and the blood stains were found on the clothes which were worn by the victim at the time of incident. He consequently submitted that the appellant be acquitted of the offences under Section 506 of the IPC and Section 6 of the POCSO Act.

Submissions of behalf of the respondent

17. The learned Additional Public Prosecutor for the State and the learned *amicus curiae* appointed to address arguments on behalf of the victim submitted that the impugned judgment is reasoned and warrants no interference. The learned *amicus curiae* submitted that the victim consistently maintained that the appellant had inserted his penis in the victim's anus. He submitted that same is sufficient to sustain the conviction of the appellant, and that minor contradictions if any ought to be ignored.

18. He submitted that merely because no injury was caused to the victim does not tantamount to mean that no offence had occurred. He submitted that the FSL report dated 08.03.2018 authoritatively concluded that the DNA profile generated from the blood sample of the appellant matched with the DNA profile generated from the blood-stained underwear of accused and the blood and semen stains found on the lower of the victim.

19. He submitted that PW-5 who conducted the FSL analysis specifically stated that the samples had not degraded. He consequently submitted that the appellant cannot now challenge the FSL report or the manner in which the samples were deposited since the same were

not challenged by him during the course of the trial.

20. He submitted that the tear on the genital area of the appellant was the cause of the bleeding which was referred to by the victim in his testimony. He submitted that the injury suffered by the appellant in his genitalia by itself indicates that the appellant had engaged in the commission of penetrative sexual assault.

21. He consequently submitted that in view of the cogent and consistent testimony of the victim as well as the scientific evidence in the present case, the prosecution has been able to prove its case beyond reasonable doubt.

Analysis

22. At the outset, it is relevant to note that while dealing with an appeal against judgment on conviction and sentence, in exercise of Appellate Jurisdiction, this Court is required to reappreciate the evidence in its entirety and apply its mind independently to the material on record. The Hon'ble Apex Court in the case of ***Jogi & Ors. v. The State of Madhya Pradesh*** **: Criminal Appeal No. 1350/2021** had considered the scope of the High Court's appellate jurisdiction under Section 374 of the CrPC and held as under:

> *"9. The High Court was dealing with a substantive appeal under the provisions of Section 374 of the Code of Criminal Procedure 1973. In the exercise of its appellate jurisdiction, the High Court was required to evaluate the evidence on the record independently and to arrive at its own findings as regards the culpability or otherwise of the accused on the basis of the evidentiary material. As the judgment of the High Court indicates, save and except for one sentence, which has been extracted above, there has been virtually no independent evaluation of the evidence on the record. While considering the criminal appeal under Section 374(2) of*

CrPC, the High Court was duty bound to consider the entirety of the evidence. The nature of the jurisdiction has been dealt with in a judgment of this Court in Majjal v State of Haryaya [(2013) 6 SCC 799] , where the Court held:

> *'6. In this case what strikes us is the cryptic nature of the High Court's observations on the merits of the case. The High Court has set out the facts in detail. It has mentioned the names and numbers of the prosecution witnesses. Particulars of all documents produced in the court along with their exhibit numbers have been mentioned. Gist of the trial court's observations and findings are set out in a long paragraph. Then there is a reference to the arguments advanced by the counsel. Thereafter, without any proper analysis of the evidence almost in a summary way the High Court has dismissed the appeal. The High Court's cryptic reasoning is contained in two short paragraphs. We find such disposal of a criminal appeal by the High Court particularly in a case involving charge under Section 302 IPC where the accused is sentenced to life imprisonment unsatisfactory.*
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> *7. It was necessary for the High Court to consider whether the trial court's assessment of the evidence and its opinion that the appellant must be convicted deserve to be confirmed. This exercise is necessary because the personal liberty of an accused is curtailed because of the conviction. The High Court must state its reasons why it is accepting the evidence on record. The High Court's acceptable only if it is supported by reasons. In such appeals it is a court of first appeal. Reasons cannot be cryptic. By this, we do not mean that the High Court is expected to write an unduly long treatise. The judgment may be short but must reflect proper application of mind to vital evidence and important submissions which go to the root of the matter. Since this exercise is not conducted by the High Court, the appeal deserves to be remanded for a fresh hearing after setting aside the impugned order.' "*
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> (emphasis supplied)

23. The criminal jurisprudence is premised on the principle that a conviction cannot be sustained on the basis of mere surmises or conjecture. It is thus for the prosecution to establish, by means of

cogent and credible evidence, each element of the alleged offence that too beyond reasonable doubt. The standard is not a mere formality but rather serves as an indispensable safeguard against the risk of wrongful conviction. Consequently, where the story of the prosecution is marred with inconsistencies or evidentiary gaps, the benefit of such doubt ought to be extended to the accused.

24. Accordingly, a meticulous examination of the impugned judgment as well as the material on record reveals that several material aspects of the case were either summarily disregarded or addressed in sweeping generalisations. The reasoning is general, not granular; broad, but not precise. Notably, the same raises the most fundamental question that lies at the heart of every criminal trial: Does the prosecution's evidence prove the case beyond reasonable doubt?

25. Before delving into the analysis of the material on record threadbare, it is pertinent to mention that this Court is conscious of the fact that the victim is a child and minor contradictions would not adversely impact the matter. It is trite law that the accused can be convicted solely on the basis of evidence of the victim as long as same inspires confidence and corroboration is not necessary for the same. However, when a victim's testimony is marked by identified flaws or gaps or provides an insufficient account of the incident, a conviction cannot be sustained. [Ref: ***Nirmal Premkumar v. State*** **: 2024 SCC OnLine SC 260**].

26. In the present case, a perusal of the material on record indicates that the case of the prosecution is marred with blemishes and fails to

establish the case against the appellant beyond reasonable doubt. The same pertains to discrepancies not just in the testimonies of the witnesses but also casts a shadow on the integrity and reliability of the scientific findings.

27. The learned ASJ convicted the appellant essentially on the basis of the testimony of the victim and that the FSL report indicating that the DNA generated from the blood and semen stains from the clothing of the victim matched with the DNA generated from the blood and other samples of the appellant.

28. One of the major grounds taken by the appellant to challenge the impugned judgment is the discrepancies in the versions of the prosecution witnesses in regard to the manner in which the alleged incident occurred and the events that transpired post the commission of the alleged offence. Upon a scrupulous analysis of the evidence, in the opinion of this Court, the same has the effect of casting a serious doubt on the veracity of the case of the prosecution. The same is summarized as follows:

28.1. *First*, in relation to the manner in which the victim reached the appellant's jhuggi, the victim/PW-1 deposed that he had gone to the appellant's jhuggi on the date of the incident to take a shower. On being cross-examined by the learned counsel for the appellant on this specific aspect, the victim stated that he used to visit the house of the appellant everyday to take a shower, and that on the date of incident as well he had gone to the appellant's house to take a shower. As opposed to this, in the version narrated by Ms. G/PW-3, she stated that

the victim had been forcibly taken away by the appellant. Further, on being cross-examined by the learned counsel for the appellant, she denied that the victim ever visited the house of the appellant for taking a bath. She instead stated that the victim visited the appellant's house for playing only.

28.2. *Second,* on the factum of the time at which the father of the victim came home on the day of the incident. The prosecution has argued that Ms. G/PW-3 arrived home in the evening at about 5:00 PM and saw blood stains on the back of the pajama of the victim. It is the case of the prosecution that upon seeing the blood stains and upon asking, the victim narrated about the manner in which the incident took place. Thereafter, Ms. G telephoned the father of the victim who then came home and made a call at 100 number. From the narrative pressed by the prosecution, it appears that the father of the victim came home in the evening after receiving a telephone call from Ms. G after which a complaint was lodged. A deeper scrutiny of the evidence reveals that the victim/PW-1, in his evidence, deposed that his father/PW-2 had come home in the afternoon, however, he had not disclosed anything to his father out of fear. On the contrary, PW-2 deposed that he had left home for work at about 10:30 am and had returned home only in the evening after receiving a call from Ms. G/PW-3. Strangely, no reference is made by PW-2 with regard to coming home at any time before having received a phone-call by PW-3. Further, PW-3 also deposed that PW-2 had returned home at about 8:00 PM after receiving a call from her. It is thus unclear whether the

father of the victim had come home only in the evening after receiving a phone call from PW-3 or had come home even in the afternoon.

28.3. *Third*, material contradictions emerge on the factum of the apparel worn by the victim at the time when the alleged incident took place and the appearance of blood on the apparel of the victim; It is pertinent to note that PW-1, in his evidence, initially deposed that he had worn a pant and an underwear on the day of the incident. He deposed that the appellant had washed his underwear and stated that "*meri pant me bhi khoon lag gaya tha.*" On the contrary, on being cross-examined by the learned counsel for the appellant, PW-1 categorically stated that "*us din maine jeans, underwear, shirt, baniyan pehne hue the.*" He further stated that "*meri underwear me khoon lag gaya tha. Aur kisi kapde par khoon nahi laga tha.*" Contrarily, PW-2, in his evidence stated that he had seen blood stains on the "*lower (pajama) of the victim*" and on being asked, PW-2 identified one "*white, red, green coloured baby lower pajama*" as the one worn by the victim when the incident took place. Furthermore, PW-3 in her cross examination stated that she had seen stains of red colour and that the victim was wearing a '*night suit of white colour*.' Further, the FSL report mentioned the apparel as the '*lower – undergarment of the victim*'.

At this stage, this Court finds it apposite to mention that the conviction of the appellant was sustained on the basis of the testimony of the victim and that the DNA generated from the blood stains from the clothing of the victim matched with the DNA generated from the

blood and other samples of the appellant. Given that the FSL report formed the bedrock of the conviction of the appellant, the garment worn by the victim and the presence/absence of blood on that garment assumes heightened significance. Discrepancies in the same thus go to the root of the present case and raises serious doubts on the veracity of the case of the prosecution.

29. Considering that the testimony of the witnesses is smeared with manifest discrepancies, this Court shall now consider the other evidence on record to strive to find the genesis of the incident. In doing so, it is relevant to examine the chain of events that transpired post the lodging of the complaint.

30. In accordance with the testimony of PW-4/the investigating officer, after the receipt of the complaint, the victim was taken to Aacharya Bhikshu Hospital for medical examination. According to the version of the prosecution, the alleged incident occurred at 1:00 PM on 17.09.2017. The MLC report indicates that the medical examination of the victim was conducted on the same day at 9:45 PM, that is, within 10 hours of the occurrence of the incident. It is the case of the prosecution that the appellant had inserted his penis in the victim's anus and on account of the same the victim had suffered immense pain and had also bled profusely. Yet, a perusal of the MLC report indicates that "*no fresh external injury was seen at the time of medical examination.*" The report indicates that the victim did not suffer any bleeding at the time of the examination. It further indicates that there was no evidence of any mucosal or perianal tear.

31. At this stage, it is pertinent to mention that this Court does not mean to suggest that an absence of injury to the private part of the victim *per se* is fatal to the case of the prosecution. However, in such a circumstance, where the entire case of the prosecution is that the appellant forcefully inserted his private part to the victim's private part, who is a young boy of 6 years and on account of which the victim suffered pain and also bled, and considering the fact that the medical examination was conducted within 10 hours of the occurrence of the alleged incident, the absence of any injury or bleeding assumes higher significance. On a conspectus of such facts, the absence of any injury is a strong circumstance against the prosecution and weighs in favour of the appellant.

32. Another peculiar circumstance that emerges from a perusal of the MLC of the victim is that the victim failed to disclose the name of the appellant as the perpetrator. It is not the case of the prosecution that the name of the appellant was not known to the victim. In fact, as per the testimony of the witnesses, the appellant resided in the neighbourhood and was known to the victim. Although the omission on the part of the victim to disclose the name of the appellant does not by itself nullify the case of the of the prosecution, it nonetheless casts a shadow on the overall credibility of the prosecution's case.

33. The learned counsel for the appellant further drew the attention of this Court to the discrepancies in the entry made in the *Malkhana* register and the delay in sending the specimens for FSL. From a perusal of the record, it is borne out that the medical examination of

the appellant was carried out on the same day, that is, on 17.09.2017 at around 11:50 PM. The *Malkhana* register, in turn, indicates that the collected biological specimen of the appellant were deposited in the *Malkhana* on the same day that is, on 17.09.2017 itself.

34. At this stage, it becomes imperative to examine the testimony of the investigating officer/PW-4 with regard to the timeline of the deposit of the exhibits in the *malkhana*. As per the evidence of PW-4, after the collection of the medical exhibits and samples of the appellant, PW-4 along with the victim/PW-1 and his father/PW-2 visited the place of the incident. Thereafter, PW-4 prepared the site plan at the instance of the father of the victim and also recorded the statement of the witnesses. The collected specimens were thereafter deposited in the *malkhana*. Considering that the MLC of the appellant itself was conducted around 11:50 PM, and the chain of events that transpired after the medical examination of the appellant, it is highly improbable for the investigating officer to have collected the medical exhibits of the appellant, visit the scene of the incident, prepare a site plan, record the statement of the witnesses and also deposit the medical samples in the *malkhana* within a mere span of 10 minutes. The discrepancy in the entry of the *malkhana* register therefore casts a doubt on the integrity of the record.

35. The same is further augmented by the delay in sending the case property for forensic analysis. It is pertinent to note that while as per the case of the prosecution, the specimens were allegedly collected on 17.09.2017, the same were sent for FSL only on 18.10.2017, that is

after an inordinate delay of more than one month. On being cross-examined by the learned counsel for the appellant on this specific aspect, PW-5/forensic examiner only stated that "*the samples are not properly preserved then it may be possible the same may be de-graded*." The witness further voluntarily stated that "*In the present matter, the samples had not de-graded or putrified.*" However, no explanation has been offered by the prosecution to show why the specimens were sent for FSL after an inordinate delay of one month. Considering that the conviction of the appellant was based on the testimony of the victim and was further premised on the DNA report, the unexplained delay in sending the exhibits for forensic analysis further undermines the integrity of the record and consequentially the case of the prosecution.

36. This Court now turns its gaze to the contention raised by the learned *amicus curiae* in relation to the injury detected on the appellant's genitalia and the profuse bleeding referred to by the victim in his testimony. It is contended that the MLC of the appellant reveals that the appellant had suffered a tear in the penile region. It has consequently been argued that it is this tear in the appellant's genital area that was the source of the bleeding, and that it was the blood of the appellant and not that of the victim that was referred to by the victim in his testimony and which appeared on the apparel of the victim. In contrast, the learned counsel for the appellant contended that the tear detected on the appellant's genital area or the aspect related to the source of blood being that of the appellant and not that

of the victim was never put to the appellant whilst he was been questioned in terms of Section 313 of the CrPC. It has consequently been argued that the same cannot now be pressed into service to ascertain the culpability of the appellant.

37. Being cognizant of the rival submissions of both the parties, and on a reappraisal of the entire material on record, it is pertinent to note that the contention raised on behalf of the victim in relation to the source of the blood being that of the appellant and not that of the victim has the impact of diluting the entire case of the prosecution. It is relevant to note that the entire foundation of the case of the prosecution before the learned Trial Court was that the appellant had inserted his penis in the victim's anus on account of which the victim experienced pain and had also bled. Further, a perusal of the record in its entirety reveals that the trial proceeded on the pretext that as a consequence of the alleged incident, it was the victim who suffered bleeding. Infact, the victim in his testimony himself stated that "*Mujhe bahut dard hua aur khoon bhi aaya.*" The victim further deposed that "*Jab mere khoon nikalne laga to unhone mujhe chod diya.*" At no stage was it ever the case of the prosecution, be it in the complaint or during the course of the trial, that the source of the blood appearing on the victim's apparel was that of the appellant and not that of the victim. Further, as discussed above, serious doubts have been raised in relation to the victim's apparel that were sent for FSL examination. Consequently, considering that no allegation in relation to the source of blood being that of the appellant was ever raised by the prosecution

and that the entire trial proceeded on the pretext that it was the blood of the victim and not that of the appellant that appeared on the victim's apparel and further considering that the apparel itself on which the appellant's blood had appeared is under suspicion, the entire narrative of the prosecution's case is diluted. Accordingly, upon taking a holistic view of the facts of the case, this Court is not inclined to entertain the said contention raised by the learned *amicus.*

38. Much emphasis has been laid by the State on the presumption of commission of offence raised against the appellant in accordance with Section 29 of the POCSO Act. The same, in the opinion of this Court, does not aid the case of the prosecution. It is pertinent to note that while Section 29 of the POCSO Act provides for a presumption as to the commission of certain offences, the said presumption is not absolute in nature and only comes into play once the prosecution establishes the foundational facts [Ref. ***Altaf Ahmed v. State (GNCTD of Delhi)* : 2020 SCC OnLine Del 1938**]. For this reason, in order to trigger the presumption, it is incumbent on the prosecution to lead evidence to prove the foundational facts. If the prosecution fails to do so, in the opinion of this Court, a negative burden cannot be thrust upon the shoulders of the accused to prove otherwise.

Conclusion

39. The solemn duty of a criminal court is not to convict merely because an allegation is made, but to convict only when the allegation is proven beyond reasonable doubt.

40. It is a settled principle that when two views are possible— one

pointing to the guilt of the accused and the other towards his innocence — the view favourable to the accused must be adopted. This principle is not a technical rule; it is rooted in the foundational notion that no person shall be deprived of liberty except through proof that satisfies the judicial conscience.

41. In the light of the foregoing, this Court is of the view that the conviction recorded by the learned Trial Court is unsustainable. The evidence led by the prosecution does not meet the standard of proof required in a case of this nature. The benefit of doubt must and does go to the appellant.

42. Accordingly, the impugned judgment and impugned order on sentence are set aside.

43. The appellant is acquitted of all charges. He shall be released forthwith, if not required in any other case. The bail bond, if furnished, stands discharged.

44. The appeal is allowed and disposed of in the aforesaid terms. Pending application also stands disposed of.

45. This Court also appreciates the effort put in by the learned *Amicus* Mr. Rohan J. Alva in assisting the Court.

46. A copy of this order be sent to the concerned Jail Superintendent for necessary compliance.

AMIT MAHAJAN, J

JUNE 23, 2025