

**THE HIGH COURT OF SIKKIM : GANGTOK**

(Criminal Appeal Jurisdiction)

Dated : 5th August, 2024-----
SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

Crl.A. No.34 of 2023

Appellant : Bindhyachal Baitha**versus****Respondent** : State of SikkimApplication under Section 374(2) of the
Code of Criminal Procedure, 1973**Appearance**Mr. Jorgay Namka, Senior Advocate (Legal Aid Counsel) for the
Appellant.Mr. S. K. Chettri, Additional Public Prosecutor for the State-
Respondent.**ORDER ON SENTENCE**Meenakshi Madan Rai, J.

1. Heard Learned Counsel for the parties on Sentence.
2. Learned Senior Counsel for the Appellant/Convict submitted that this Court consider sympathetically the circumstances of the Appellant's family while imposing sentence as his wife is not earning, he has three dependent children, of which the daughter is attending college and two sons are school going. That, his prolonged incarceration would in fact affect them adversely. That, since twenty years' has been prescribed under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter, the "POCSO Act"), as the minimum imprisonment, that be the only sentence to be imposed on him and not life imprisonment as also prescribed in the provision.
3. Learned Additional Public Prosecutor submits that he has no objection to the submissions put forth by Learned Senior Counsel for the Appellant.



4. Having given due consideration to the submissions advanced, I am of the considered opinion that the following sentence will meet the ends of justice;

(i) Accordingly, the Appellant/Convict is sentenced to undergo rigorous imprisonment of twenty years' and to pay a fine of ₹ 3,000/-(Rupees three thousand) only, under Section 5(m) punishable under Section 6 of the POCSO Act. In default of payment of fine, the Appellant shall undergo further rigorous imprisonment of one month.

(ii) The period of imprisonment already undergone by the Appellant as under-trial prisoner and convict under Section 9(m) punishable under Section 10 of the POCSO Act, be set off against the period of imprisonment imposed on him today.

5. Appeal disposed of accordingly.

6. Copy of this Order be forwarded to the Learned Trial Court for information along with its records.

7. A copy of this Order also be made over to the Appellant/Convict through the Jail Superintendent, Central Prison, Rongyek and to the Jail Authority at the Central Prison, Rongyek, for information and appropriate steps.

(Meenakshi Madan Rai)
Judge

05-08-2024

Approved for reporting : **Yes**