IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CRMP No.3054 of 2025 in
Cr. Appeal No.391 of 2025

Reserved on: 03.09.2026

Date of decision: 29.09.2026
Uploaded on: 29.09.2026

Satish Kumar. ...Applicant/Appellant.

Versus

State of Himachal Pradesh. …Respondent.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Bhupesh Sharma, Judge.

Whether approved for reporting?[1] *Yes*

For the applicant/ appellant	:	Mr. Lakshay Parihar, Advocate.
For the respondent(s)	:	Mr. J.S. Guleria, Deputy Advocate General.

Vivek Singh Thakur, Judge

Applicant-appellant, Satish Kumar, has been convicted by learned Additional Sessions Judge, Fast Track Special Court (POCSO), Kangra at Dharamshala, District Kangra, Himachal Pradesh, in **Sessions Case No.14-D/VII/2023** (CIS Registration No.62/2023), titled as ***State of Himachal Pradesh vs. Vinod Kumar & another***, arising out of FIR No.42 of 2023, dated

[1] *Whether the reporters of the local papers may be allowed to see the Judgment/Order? Yes*

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

18.03.2023, registered at Police Station Jawalamukhi, District Kangra, H.P., under Sections 363, 342, 376(2) and 506 of the Indian Penal Code and Sections 6 and 17 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO Act**'). Vide judgment of conviction dated 28.04.2025 and order of sentence dated 03.05.2025, the applicant-appellant has been sentenced to undergo rigorous imprisonment for a term of twenty years and to pay a fine of ₹10,000/- under Section 17 read with Section 6 of the POCSO Act for abetment, and in default of payment of fine, to further undergo simple imprisonment for a period of six months.

2. The present application has been filed for suspension of sentence of applicant-appellant, Satish Kumar, on the ground that there is no role of Satish Kumar in commission of offence by co-accused Vinod Kumar, and there is a fair chance of acquittal of applicant-appellant, as his case can be considered differently from the main accused Vinod Kumar, who has been specifically named by victim as culprit responsible for the violation of her person without her will. As per custody certificate, the applicant-appellant, as of now, has undergone sentence for a period of about one year and eight months

3. The prosecution case, as emerged from the statement of victim recorded under Section 164 Cr.P.C., the written complaint

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

submitted by her for registration of FIR, as well as her deposition in the Court, is that co-convict Vinod Kumar is resident of the village of the victim, father of the victim is a labourer, whereas her mother suffers from mental illness. In August, 2020, Vinod Kumar made the victim to believe that he would arrange *Desi* medicines for the treatment of mental ailment of her mother, for which the victim was asked to accompany him to village Basdi Kohala. Believing Vinod Kumar, victim accompanied him to village Basdi Kohala, where he took her to the house of his friend Satish Kumar (present applicant-appellant). Satish Kumar went outside, whereafter Vinod Kumar committed sexual intercourse with the victim. Thereafter, Vinod Kumar informed the victim that he had shot a video of the incident, and threatened that in case she would disclose the incident to anyone, he would make the video viral. On account of that threat, out of fear, the victim remained silent, however, Vinod Kumar continued to blackmail her.

4. It is further case of the prosecution that on 14.03.2023, Vinod Kumar made a call to the victim stating that the medicine had been arranged and asking her to come to village Basdi Kohala to collect the same. The victim boarded a bus to Basdi Kohala, and from the bus stand, applicant-appellant Satish Kumar took her on his scooty to his house. After leaving her in the house, Satish Kumar

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

went away. Thereafter, Vinod Kumar arrived and violated her person three to four times during that night, and also snatched her mobile phone. In the morning, he permitted her to leave, and she returned home. When her father and brother enquired as to where she had been throughout the night, she remained silent out of fear of Vinod Kumar. Subsequently, she gathered courage and narrated the entire incident to her maternal cousin and his wife, who encouraged her to report the matter. Thereafter, the victim, accompanied by her brothers Balwant Singh and Arjun, visited Police Station Jawalamukhi and lodged a complaint. The victim also identified the house of Satish Kumar, wherefrom a bed sheet was taken into possession by the police, on the basis of her identification of the bed, where she was violated.

5. Learned counsel for the applicant-appellant has submitted that from the prosecution story as well as deposition of the victim, it is apparent that applicant-appellant Satish Kumar neither allured, enticed nor threatened the victim to surrender before co-accused Vinod Kumar. It has been further submitted that even if the prosecution case is accepted as true in its entirety, in August, 2020, the victim arrived at the house alleged to be owned by applicant-appellant Satish Kumar on her own accord and stayed with Vinod Kumar, during which time Satish Kumar did not facilitate the violation

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

of her person by Vinod Kumar in any manner. Furthermore, it is not the case of the victim that she sought the assistance of Satish Kumar to avoid copulation with Vinod Kumar, nor was any threat ever extended to her by Satish Kumar. It is also not the case of the victim that applicant-appellant Satish Kumar ever blackmailed her.

6. It has been further contended on behalf of applicant-appellant that since Satish Kumar was acquainted with the victim as a friend of Vinod Kumar, who had accompanied Vinod Kumar to the house earlier in the year 2020, he, as per the prosecution narrative, had merely provided a lift on his scooty to the victim to meet Vinod Kumar. At that juncture as well, Satish Kumar had not instigated, contacted, allured, enticed or threatened the victim in any manner so as to compel her to leave her home and travel to Basdi Kohala for an overnight stay with Vinod Kumar.

7. Learned counsel for the applicant-appellant has further submitted that relations between Vinod Kumar and the victim were personal in nature, the basis of which was known best to both of them, and applicant-appellant Satish Kumar had no knowledge regarding any alleged blackmailing of the victim by Vinod Kumar or her being compelled to surrender before him on account of threats.

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

8. It has been submitted on behalf of the applicant-appellant that there is no material on record to infer that applicant-appellant Satish Kumar in any manner caused or aided violation of the victim by Vinod Kumar, so as to attract the statutory ingredients of Section 17 of the POCSO Act. It is contended that in the entire prosecution case, there is no evidence directly implicating the applicant-appellant under Section 17 of the POCSO Act.

9. Learned counsel for the applicant-appellant has further highlighted that during the course of trial, the applicant-appellant was enlarged on bail and he remained duly associated with the trial proceedings throughout, without abusing the concession of liberty. Upon his conviction, he surrendered and submitted himself to the verdict of the Court. Consequently, in the event of suspension of sentence during the pendency of the present appeal, there is no apprehension or possibility of his absconding or fleeing from justice. The applicant-appellant further undertakes to strictly abide by all terms and conditions that may be imposed by this Court while suspending the substantive sentence of imprisonment awarded to him.

10. On the other hand, learned Deputy Advocate General has opposed the prayer for suspension of sentence, submitting that a minor girl aged 15 years was violated by Vinod Kumar in the house

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

of Satish Kumar in 2020, thereby establishing that Satish Kumar actively facilitated the commission of the offence against a minor. It is further submitted that Satish Kumar once again brought the minor to his house on his scooty to hand over her to Vinod Kumar, and by subsequently leaving the house, he played a calculated and silent role in enabling the commission of the offence by Vinod Kumar. Leaving the minor victim alone with Vinod Kumar inside his house does not condone his conduct, and having been rightly convicted by learned Trial Court, he is not entitled to suspension of sentence at this stage.

11. It has been further argued by learned Deputy Advocate General that though the applicant was enlarged on bail as an undertrial prisoner, he now stands convicted after a full-fledged evaluation of the evidence on record, disentitling him to any interim relief.

12. Learned Deputy Advocate General has further submitted that convict Vinod Kumar is more than 36 years of age, more than double the age of the victim, and applicant-appellant Satish Kumar is also of comparable age. Therefore, both individuals are equally culpable and liable to be punished for subjecting the minor victim to sexual assault.

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

13. It has been submitted by learned Deputy Advocate General that Vinod Kumar was actively involved in inducing the victim through misrepresentation and thereafter subjecting her to blackmail. The commission of the substantive offence of sexual assault by Vinod Kumar has been substantiated by medical and scientific evidence, inasmuch as from the DNA extracted from the bed sheet seized upon the identification of the bed by the victim, two distinct DNA profiles were identified, one of which matched the DNA profile of convict Vinod Kumar and the other matched the DNA profile of the victim.

14. It has been further submitted by learned Deputy Advocate General that the commission of offence by Vinod Kumar has been facilitated by applicant-Satish Kumar by aiding Vinod Kumar in the commission of offence by making available room in his house, and the act on his part constitutes abetment of commission of offence, and thus, he has been rightly convicted under Section 17 of the POCSO Act.

15. It has been further submitted by learned Deputy Advocate General that though a plea is being taken that there is no evidence on record that the house wherein the offence was allegedly committed belongs to applicant-Satish Kumar, however, PW-2 HC Narinder Kumar has categorically stated that the victim had identified

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

the room and the double bed in the house of accused-Satish Kumar in the presence of Anupama, wife of Satish Kumar.

16. It has also been submitted that further, another Panch Witness to the identification memo of the house of Satish Kumar, PW-3 Tilak Raj, though has been declared hostile, in the opening lines of his statement had deposed that on 19.03.2023 he was called by the police to the house of accused Satish Kumar, and he visited the house of Satish Kumar on the same day and signed the paper on the request of the Investigating Officer.

17. Further it has been submitted that similarly, PW-6 Joginder Kumar, who is another Panch Witness, though declared hostile, in the opening lines of his deposition had stated that he along with Raghubir Singh (Up-Pradhan) remained associated in the investigation on 20.03.2023 and the accused went ahead of the Police Party and identified the house of Satish Kumar, whereupon the Investigating Officer prepared the memo qua identification of the spot (Ex. P-15/PW-6), which was signed by him in red circle 'A' and by Raghubir Singh in red circle'B'.

18. With regard to the identification of the house of Satish Kumar where the offence was committed, learned Deputy Advocate General has submitted that PW-2, PW-3, and PW-6 have deposed

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

corroborating the prosecution case even before being declared hostile witnesses. Therefore, the plea taken by learned counsel for the applicant-appellant that there is no evidence on record to establish that the house wherein the offence was committed belongs to Satish Kumar is contrary to the record.

19. It has been further submitted that the victim was of an age less than half of the age of the main accused-Vinod Kumar as well as applicant-Satish Kumar, and it is not a case where out of attraction or due to teenage or being of similar age, the relations were developed between adolescents or teenagers. It is a case where middle-aged, mature persons have managed the circumstances to violate and spoil a teenager before attaining the age of discretion by her, and therefore, Satish Kumar is equally responsible for the commission of offence under the POCSO Act against the victim.

20. It has been further submitted that taking the victim on a scooty by Satish Kumar to Vinod Kumar is also an act of abetment of the commission of offence. It is not a case where the role of Satish Kumar is limited to providing lift to the victim, but a case where, apart from taking the victim on a scooty to his house, Satish Kumar has actively facilitated and aided the commission of offence by providing accommodation in his house.

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

21. Learned Deputy Advocate General has referred to Section 17 of the POCSO Act along with the Explanation provided under the said Section, which provides that abetment of any offence under the POCSO Act shall be punished with the punishment provided for that offence, with further Explanation that an act or offence is said to be committed in consequence of abetment, when it is committed in consequence of instigation, or in pursuance of conspiracy, or with the aid which constitutes the abetment. In the present case, it is more than apparent from the evidence on record that Satish Kumar was in conspiracy with Vinod Kumar and with his aid, the offence was committed, which constitutes abetment. Thus, the case of Satish Kumar cannot be considered differently from the case of Vinod Kumar.

22. Without going into the merits of the submissions made by learned counsel for the applicant-appellant as well as learned Deputy Advocate General, but considering the material on record, facts, circumstances and evidence referred by both sides, this Court is of the considered opinion that at this stage, no case for suspension of sentence is made out.

23. Observations made hereinabove shall not have any bearing on the final adjudication of the appeal, as these observations

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS

are *prima facie* and preliminary in nature, made strictly for the purpose of considering the suspension of sentence of the applicant.

24. The application is dismissed in the aforesaid terms.

(Vivek Singh Thakur)
Judge

(Bhupesh Sharma)
Judge

29th September, 2026
(Pardeep)

High Court of H.P.

::: Downloaded on - 30/09/2026 07:40:16 :::CIS