

News

Supreme Court to hold special sitting during holiday to hear CBI appeal against Kuldeep Singh Sengar bail



CBI has argued that the High Court erred in law in holding that the offence of aggravated penetrative sexual assault under Section 5(c) of the POCSO Act was not made out against Sengar

A three-judge bench of the Supreme Court will hear on December 29 the Central Bureau of Investigation's plea challenging the Delhi High Court order suspending the life sentence given to former Uttar Pradesh MLA Kuldeep Singh Sengar in the Unnao rape case.

The matter is listed before a holiday bench comprising Chief Justice of India (CJI)

Surya Kant, Justice JK Maheshwari and Augustine George Masih.

The Court is currently closed for winter break and will restart regular sitting only on January 5.

Sengar was convicted by a Delhi trial court in December 2019 for offences under the Indian Penal Code and the Protection of Children from Sexual Offences Act and was sentenced to imprisonment for the rest of his natural life.

The CBI has approached the apex court against the Delhi High Court's December 23 verdict suspending the life sentence given to Sengar by the trial court.

The reason for releasing Sengar was the High Court's prima facie finding that the offence of aggravated penetrative sexual assault under the POCSO Act was not made out against him.

Section 5 of the POCSO Act lists circumstances under which a penetrative sexual assault of a child is called an aggravated penetrative sexual assault.

As per the same, penetrative sexual assault becomes aggravated penetrative sexual assault if it is committed by a public servant or a police officer within the borders of the police station or a member of the armed forces or security forces or a hospital staff or jail staff.

Aggravated penetrative sexual assault draws a minimum punishment of 20 years in jail and can extend to a life sentence.

Sengar was punished by the trial court for the said offence on the ground that he fell within the definition of a 'public worker'.

However, the Division Bench of Justices Subramonium Prasad and Harish Vaidynathan Shankar of High Court ruled that he cannot be categorised as a public servant under Section 5(c) of the POCSO Act or Section 376(2)(b) of the IPC.

The High Court further said Sengar cannot come within the four corners of Section 5(p) of the POCSO Act, which punishes a person in ***“position of trust or authority”*** for aggravated penetrative sexual attack.

CBI has argued before the apex court that the High Court erred in law in holding that the offence of aggravated penetrative sexual assault under Section 5(c) of the POCSO Act was not made out against Sengar on the ground that he was not a public servant.

According to the CBI, a sitting MLA holds a constitutional position of trust and authority and performs public duties in which the State and the community at large have an interest.

CBI has also raised concerns regarding the safety of the survivor and her family, stating that Sengar is an important person and that his release during the pendency of the appeal would jeopardise their security and undermine public faith in the justice delivery system.