



**R.**  
**v**  
**JAN JAHANZEB**  
**ISRAR NIAZAL**

**Warwick Crown Court**  
**23S51088125**

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**SENTENCE**

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Mr WILLIAMS for the prosecution  
Mr BOLT for JAN JAHANZEB  
Mr RADCLIFFE for ISRAR NIAZAL

**1. Facts**

- 1.1 On the afternoon of Saturday 10 May 2005 at around 3pm a number of young people were gathered in public gardens behind the Parish Church in Leamington Spa. The group included 15-year-old V, her friend W, and a number of other people of a similar age. You two were also in the same gardens, and V and her friends got involved in conversations with you. Some of the young people went to a shop and bought two bottles of vodka. After they came back, and after V and some of the others had drunk a lot of the vodka, you two came to sit with them.
- 1.2 By about 8.30pm people were beginning to leave. At some stage around this time you Jan Jahanzeb walked off with V. V can't remember much about what happened, because by this time she was what she describes as 8 or 9 out of 10 drunk. But she had the presence of mind to record some of that walk on her phone. We have seen the footage at court today. It is three minutes long. It is highly distressing to watch.
- 1.3 It is clear that when you were walking her away from her friends and away from safety she was in a state of extreme distress. She was crying and shouting for help. She repeatedly said that she didn't want to go with you or your friend, that she didn't want to go into the park, that she wanted to go back to her friends. Although at one stage a woman can be heard asking if she was alright, no one came to her aid.
- 1.4 You Jan Jahanzeb told her repeatedly to shush and at one stage put a hand over her mouth to silence her. You called Israr Niazal to join you which he did, and by the end of that piece of footage the two of you are walking on either side of

her. There is also CCTV footage which shows three figures walking side by side, with V in the middle.

- 1.5 You took her to Newbold Comyn. When you were there, and were out of public sight, one of you pushed her down on her knees with sufficient force to rip her jeans and graze her knee. Then one by one you each pushed her head down and orally raped her. She remembers being terrified and wanting the ordeal to end quickly.
- 1.6 It is not clear how it ended, but what is clear is that you two gave her no help in getting back to her friends and to safety. She was effectively abandoned by you, and she recorded further footage showing her extreme distress afterwards as she went down the street crying for help. She was found in the street stumbling and crying by Chris Pell, who was on his way home from work, and he realised that something was very wrong indeed and took her to the police station where she made her complaint.
- 1.7 You were both arrested and interviewed and both denied the offence. Proceedings took place in the Youth Court. You both maintained Not Guilty pleas until day of trial, when V attended court to give evidence. You then each pleaded guilty on a basis. You Jan Jahanzeb pleaded on the basis that you were drunk, which was not controversial. You Israr Niazal pleaded on the basis that firstly while you accepted that the belief was unreasonable, you did genuinely believe that V was consenting; and secondly that you used no violence. That was not accepted by the prosecution and there was a trial of issue. You did not require evidence to be called. Nor did you choose to give evidence yourself. The District Judge found against you, and I have read his ruling. You will be sentenced on the prosecution case as set out.

## **2. Victim Impact**

- 2.1 We have today heard the short and dignified statements made by V and her mother. What you two did on that night changed V's life forever. She is no longer a happy carefree teenager. She struggles to process what has happened. She feels sick at the thought of going to school. She feels pain at the distress this has caused her family.
- 2.2 Her mother speaks of her vibrant happy and confident daughter shrinking into a child with anxiety so bad that she is often physically sick. She speaks of the family's heartbreak, and the fact that, in her words, something broke in all of them that day.
- 2.3 She speaks of V's strength, courage, grace and dignity. It is clear to me that these words apply not only to V but to her whole family. No child should have to suffer the ordeal V has suffered. The experience of the courts is that no one can say what the long-term effects of this on V and her family will be. However, the fact that V has a family of such loyalty and fortitude will give her the best possible chance of being able to move on. They will I hope see justice done today, and will begin to find the healing that they all seek.

- 2.4 But this is no thanks to the two of you. You two have robbed V of her childhood, and that is something that no sentence of this court, and nothing I do today, can restore.

### **3. Defendants**

#### **3.1 JAN JAHANZEB**

- 3.2 I have a pre-sentence report prepared by the Youth Offending Team. You are 17 and will turn 18 in three weeks' time. You were 17 years and a little over four months old at the time of this offence.

- 3.3 When you discussed the offence you tried to minimise your responsibility, blaming your co-defendant for getting you involved, and the victim herself for pushing you and kissing you, as well as the fact that you were drunk. You say that you are inexperienced in sexual matters; your reluctance to talk about it makes the truth of this assertion difficult to assess, although I do of course understand that given your age your sexual experience is necessarily limited.

- 3.4 You left Afghanistan after you say threats were made to you and your family, and you spent about nine months travelling to the UK. You travelled through many countries, often on foot and I am sure that your journey was both difficult and dangerous. I accept that this amounts to a traumatic set of experiences for a young person. I am told that is possible that you are suffering from PTSD. I understand that your situation leads to anxiety and distress. You are likely to feel alienated given your status as an asylum seeker, even before considering this offence.

- 3.5 You struggle to express empathy, and there are concerns about your understanding of vocabulary and cognitive functioning. You are navigating unfamiliar cultural norms. Your understanding around issues of consent is described as inconsistent. I understand that your educational background is unclear and that your insight may be reduced as a result.

#### **3.6 ISRAR NIAZAL**

- 3.7 I have read the report prepared by the Youth Offending Team. You are 17 years and almost two months old; you were 16 years and seven months old at the time of this offence. You still maintain that you believed the victim was consenting. You also say that you do not understand consent as it does not exist in Afghanistan. However, you are able to discuss issues of consent in a way which demonstrates in my judgment that you do have an understanding of the concept.

- 3.8 You came to the UK from Afghanistan in November 2024, having fled due to fears of the Taliban. You had limited formal education. Your father is believed to have been killed by the Taliban and your mother suffers with mental health difficulties. Your journey to the UK took nine months and was arduous and traumatic. Your childhood experiences have had a significant effect on your cognitive development.

3.9 I am told you are committed to building a future in the UK. Whether that happens or not is a matter for another court.

3.10 **Cultural Differences**

3.11 I accept that you come from a place which has significant cultural differences from the UK. However, I do not accept that either of you does not understand the concept of consent. This is a case where it was absolutely clear to both of you that you were taking a child away from her friends, in the face of her sustained and vigorous protests, to somewhere you could not be observed, in order to commit this offence. I am satisfied that you both knew perfectly well that what you were doing was criminal and wrong.

3.12 In addition, it cannot be right that people, even young people like you, can claim that any significant mitigation for offending as serious as this can be derived from the fact that their different background makes the offence seem less serious to them than it would to someone who was brought up in the UK.

3.13 I add this: the huge majority of people who come here to seek asylum do so with every intention of respecting the laws of this country. They behave with restraint and dignity in the most difficult of circumstances. They face abuse and condemnation, which is often entirely unmerited. When you commit a crime of this sort you significantly contribute to public censure not just of yourselves, but of your own communities, and asylum seekers in general. You have betrayed the interests of those like you who come here fleeing harm and seeking safety, and for that you should feel a deep and lasting sense of shame.

4. **Statute**

4.1 Where a young person is committed by the Youth Court to the Crown Court for sentence under S16 of the Sentencing Act 2020, under S22(2) of the same act:

*The Crown Court—*

*(a) must inquire into the circumstances of the case, and*

*(b) may deal with the offender in any way in which it could deal with the offender if the offender had been convicted of the offence on indictment before the court.*

4.2 Under S249 of the Sentencing Act 2020:

*249 (1) A sentence of detention under section 250 is available where a person aged under 18 is convicted on indictment of an offence listed in the following table [...]*

*Any offence which—*

*(i) is not an offence for which the sentence is fixed by law, and*

*(ii) is punishable in the case of a person aged 21 or over with imprisonment for 14 years or more;*

- 4.3 Given the Crown Court's powers under S16(b) above, a sentence of long-term detention under S250 is available even when a person is convicted in the Youth Court and therefore not on indictment.
- 4.4 Under S251 of the same act:
- 4.5 *(2) The court may impose such a sentence if it is of the opinion that neither a youth rehabilitation order nor a detention and training order is suitable.*

## 5. Guidelines

- 5.1 I have a number of Sentencing Council guidelines I have to consider.
- 5.2 **Sentencing Children and Young People**
- 5.3 Section 1 of the guideline on Sentencing Children and Young People sets out the approach the courts must take as follows:
- 5.4 *1.1 When sentencing children or young people (those aged under 18 at the date of the finding of guilt) a court must have regard to:*
- *the principal aim of the youth justice system (to prevent offending by children and young people);*
  - *the welfare of the child or young person.*
- 5.5 When considering whether a sentence of custody is necessary, I must take into account the following:
- 5.6 *6.42 Under both domestic and international law, a custodial sentence must only be imposed as a 'measure of last resort;' statute provides that such a sentence may be imposed only where an offence is "so serious that neither a fine alone nor a community sentence can be justified." If a custodial sentence is imposed, a court must state its reasons for being satisfied that the offence is so serious that no other sanction would be appropriate and, in particular, why a YRO with intensive supervision and surveillance or fostering could not be justified.*
- 5.7 *6.43 The term of a custodial sentence must be the shortest commensurate with the seriousness of the offence [...]. The court should take account of the circumstances, age and maturity of the child or young person.*
- 5.8 In terms of length of sentence, the guideline states as follows:
- 5.9 *6.46 When considering the relevant adult guideline, the court **may** feel it appropriate to apply a sentence broadly within the region of half to two thirds of the adult sentence for those aged 15 – 17 and allow a greater reduction for those aged under 15. This is only a rough guide and must not be applied mechanistically. In most cases when considering the appropriate reduction from the adult sentence **the emotional and developmental age and maturity of the child or young person is of at least equal importance as their chronological age.** This reduction should be applied before any reduction for a plea of guilty.*

- 5.10 *6.47 The individual factors relating to the offence and the child or young person are of the greatest importance and may present good reason to impose a sentence outside of this range.*

### 5.11 Sexual Offences: Sentencing Children and Young People

- 5.12 This guideline deals with a number of matters specific to the sentencing of young people for sexual offences. It reads as follows:

- 5.13 *Sentencing a child or young person for sexual offences involves a number of different considerations from adults. The primary difference is the age and level of maturity. Children and young people are less emotionally developed than adults; offending can arise through inappropriate sexual experimentation; gang or peer group pressure to engage in sexual activity; or a lack of understanding regarding consent, exploitation, coercion and appropriate sexual behaviour.*

- 5.14 *Below is a non-exhaustive list of factors that illustrate the type of background factors that may have played a part in leading a child or young person to commit an offence of this kind.*

- *Victim of neglect or abuse (sexual, physical or emotional) or has witnessed the neglect or abuse of another.*
- *Exposure to pornography or materials which are age inappropriate.*
- *Involvement in gangs.*
- *Associated with child sexual exploitation.*
- *Unstable living or educational arrangements.*
- *Communication or learning disabilities or mental health concerns.*
- *Part of a peer group, school or neighbourhood where harmful sexual norms and attitudes go unchallenged.*
- *A trigger event such as the death of a close relative or a family breakdown.*

- 5.15 In your cases, the fact that you have lived through some traumatic events in Afghanistan, followed by a lengthy, difficult and dangerous journey to the UK; and the fact that you have difficulties with communication and some mental health concerns; are among the factors relevant to my assessment of the appropriate level of sentence in this case.

### 5.16 Rape Guideline

#### 5.17 Harm

- 5.18 There are a number of Category 2 harm factors:

- 5.19 Abduction: This clearly applies in circumstances when you took V away from her friends and walked her a considerable distance away against her will;

- 5.20 Victim is particularly vulnerable due to personal circumstances: V was vulnerable by reason of her young age and her extreme intoxication.
- 5.21 Prolonged detention/sustained incident: I accept that this may not be engaged as it did not last for a matter of hours or days, but it was nevertheless an ordeal that lasted some time, and it must have seemed a very long time indeed to V.
- 5.22 Violence or threats of violence (beyond that which is inherent in the offence): V was marched along the road, a hand was put over her mouth, and she was pushed to her knees causing a graze. Her head was held by each of you in turn while you raped her. Whether or not that is strictly classed as use of violence for the purposes of this guideline, it is clearly a use of physical force that is relevant to the categorization of harm.
- 5.23 Severe psychological harm: I am sure the harm that V suffered was very serious indeed. I do not need medical evidence to make a finding of severe psychological harm. Nor do I need lengthy and detailed victim impact statements. I am sadly not in the least surprised to hear that this has caused V such bad anxiety that she is often physically sick. She is a 15 year old child at a key stage of her life and education who had no previous sexual experience, and whose life has been turned upside down by what has happened. This in my judgment clearly amounts to a case where the psychological harm caused by this offence can properly be categorised as severe.
- 5.24 There are not one but at least three and arguably four or five Category 2 harm factors, and that being the case I must consider whether this offence falls into Category 1 harm.
- 5.25 I have considered this matter very carefully. Given that your victim was only 15 years old, was entirely sexually inexperienced, and that she was incapacitated by alcohol, it seems to me that her exceptional vulnerability is an extreme Category 2 factor, and that, combined with the other Category 2 factors, elevates this case into Category 1 harm.
- 5.26 Culpability
- 5.27 Turning to culpability, this was a joint offence, carried out by the two of you acting together. This therefore falls into the category of higher culpability.
- 5.28 For a Category 1 higher culpability offence there is a starting point of 15 years imprisonment for an adult, with a range of 13 to 19 years imprisonment.
- 5.29 Aggravating factors
- 5.30 I have said that V was a vulnerable victim. I am also satisfied that you specifically targeted her because of her obvious vulnerabilities, firstly that she was very young, and secondly that she was very drunk. You then went on to increase her vulnerability by taking her away from her friends and isolating her. I do not consider that it amounts to “double counting” to decide as I do that your specific targeting of her is an aggravating factor.

- 5.31 A further aggravating factor is the fact that you were both under the influence of alcohol at the time of the offence.
- 5.32 Mitigating factors
- 5.33 The following mitigating factors apply to both of you:
- Your youth;
  - Your lack of previous convictions;
  - Your guilty pleas at the time when they were offered.
- 5.34 I will deal with your youth in the way set out below.
- 5.35 I give you credit for your lack of previous convictions.
- 5.36 You both pleaded guilty on the day of trial. This attracts a reduction in sentence of 10%.
- 5.37 You Israr Niazal pleaded guilty on a basis which required litigation. I am told that you submitted a document which said that you believed that V was consenting, although you accepted that your belief was unreasonable. At the trial of issue there was no live prosecution evidence called. You did not give evidence.
- 5.38 I have already indicated that in my view it is both unfortunate and surprising that this matter was dealt with in the Youth Court, and that it was not committed to the Crown Court for trial at a much earlier stage.
- 5.39 One consequence of that is that is difficult for me to determine exactly how this situation arose in the Youth Court. It would have been entirely impossible for you to establish your basis without giving evidence. I do not know what advice you were given, and I note that your counsel here today was not dealing with the case on that occasion; given your youth, your lack of familiarity with the court system, and your complete dependence on your legal advisers, and noting that no prosecution witness was required to give evidence, I am not going to reduce your credit for the fact you made this challenge.
- 5.40 I therefore give you both 10% credit for guilty plea.

## **6. Dangerousness**

- 6.1 In each of your cases I have to consider dangerousness, that is, whether there is a significant risk of serious harm caused by the commission by you of further specified offences.
- 6.2 In your case, bearing in mind your youth, the lengthy sentences that you will be serving, and the fact that it is your first offence, while there is always a risk, I do not consider it to be significant. I therefore do not make a finding of dangerousness in respect of either of you.



## 7. Sentence

- 7.1 I make no distinction between you in terms of the roles you played in the offending. This was a joint offence in which you both took part; there is no evidence that one of you played a greater part than the other. It may be that you Jan Jahanzeb urged Israr Niazal to join you, but once you Israr Niazal joined in you did so enthusiastically, both in the abduction and in the rape. It is not clear which of you pushed V to her knees, but it happened when you were both there, you both went on to rape her after it happened, and you are both equally responsible for it.
- 7.2 I consider the aggravating factors outweigh the mitigating factors. In circumstances where an offence of this gravity is committed by two people against a young child incapacitated by alcohol whom they have effectively abducted and removed from her friends or anyone who can help her, good character can attract limited credit. The appropriate sentence for adult men of with no previous convictions after trial would have been one of at least 18 years imprisonment. For adult men with relevant previous convictions the appropriate sentence would be beyond the range for this offence.
- 7.3 This offence is of a level of seriousness substantially beyond that for which a youth rehabilitation order or a detention and training order is suitable. I remind myself that I must impose the shortest sentence commensurate with the seriousness of the offence and with my public duty.
- 7.4 I have to consider the appropriate reduction for your ages at the time of the offence. You Jan Jahanzeb were 17 years and four months old; you Israr Niazal were 16 years and seven months old.
- 7.5 I accept that this is a case in which you are “culturally at sea”, and that your education has been disrupted. I do not however accept that either of you have a developmental age younger than your chronological age.
- 7.6 In the circumstances I consider the appropriate sentence after trial for you Jan Jahanzeb would have been one of 12 years detention. You Israr Niazal are entitled to a slightly higher reduction given that you are 10 months younger, and the appropriate sentence after trial would have been one of 11 years detention.
- 7.7 With just over 10% credit for a guilty plea the sentences are as follows:
- 7.8 **For JAN JAHANZEB: 10 years and 8 months detention.**
- 7.9 **For ISRAR NIAZAL: 9 years and 10 months detention.**
- 7.10 You will both spend up to two thirds of this sentence in detention; you will then be released on licence. If you fail to abide by the conditions of your licence, or commit any further offences, you will be returned to custody for the remainder of your sentence.
- 7.11 In the case of you Jan Jahanzeb, given that you were 17 at the time of your guilty plea, the provisions of the UK Borders Act 2007 S 33(3) means that despite the length of this sentence automatic deportation does not apply.

- 7.12 There has however been an application for deportation in your case; notice has been served on you over seven days ago; Under the Immigration Act 1971 S6(1) I may make a recommendation for deportation.
- 7.13 I have considered whether I should make such a recommendation. Given the nature and seriousness of the offence, and the fact that you are a young person who has been resident in the UK for only a short time and has no family here, and no real ties, I consider that a recommendation is clearly appropriate.
- 7.14 With regard to you Israr Niaza: you were 16 at the time of conviction. I therefore do not have the power to make such a recommendation; but I invite the Secretary of State to be notified of this matter for her consideration.
- 7.15 I am imposing a restraining order on each of you: you must not contact directly or indirectly V or go to any place at which you know or believe she lives, studies or works. A breach of this order is a criminal offence which carries a prison sentence. That order will remain in place indefinitely.
- 7.16 You will both be bound by the notification requirements of the Sex Offenders Register for the remainder of your lives.

**Her Honour Judge de Bertodano**

**8 December 2025**