

District- Giridih C.N.R. No. JHGR01-007510-2023

In the Court of Special Judge, POCSO Act, Giridih.

Present : Ravi Shankar Mishra
Special Judge,
POCSO Act
Giridih.
Giridih, Dated 12th day of March, 2026

POCSO Case no. 132/2023

Giridih(M) P.S. Case no. 257/2023

State.....through the informant.

.....Prosecution.

Versus

Ajay Kumar Sao @ Ajay Sao, aged about 29 years, s/o Nepali Sao, r/o-
village Maheshlundi, P.S. Muffasil, District Giridih
..... Accused

Charge U/s 366, 376(2)(n) IPC, Section 5(1)/6, 8 and 12 of POCSO Act.

For the Prosecution : Sri Ashok Kumar Das, Learned Spl. P.P
For the Accused : Sri Narendra Kumar Roy, Learned Advocate

Date of Offence	17.08.2023
Date of FIR	26.08.2023
Date of Charge sheet/cognizance	25.10.2023
Date of Framing Charges	01.12.2023
Date of Commencement of evidence	08.12.2023
Date on Judgment is reserved	25.02.2026
Date of the Judgment	12.03.2026

Accused Details:

Name of the Accused	Date of Surrender	Date of released on Bail	Offences charged with	Whether Acquitted or Convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C
Ajay Kumar Sao @ Ajay Sao	27.08.23	NIL	U/s 366, 376(2)(n) IPC, Section 5(1)/6, 8 and 12 of POCSO Act	Acquitted	NIL	02 years 06 months 16 days.

J U D G M E N T

1. Present case has been instituted on the basis of written application of informant against one person namely Ajay Sao hereinafter referred to as accused who is facing allegation U/s 366, 376(2)(n) IPC, Section 5(I)/6, 8 and 12 of POCSO Act in this case.

2. According to the written application of informant, prosecution case story in brief is that he is resident of village Gujiyadih, Dist-Giridih. At about 7 PM on 17.08.2023 his minor daughter aged about 17 years had gone to bring some household goods from the nearby shop run by his mother (informant's mother). When victim did not return even after one hour, informant went to the shop and made enquiry from nearby people but he did not get any clue. In the night of same day informant received a phone call from the mobile number of his daughter (victim) but the voice was unclear. It is further stated in the case story that in course of search and upon enquiry from nearby people informant came to know that Ajay Sao, a married person, had taken away his minor daughter under inducement. Hence the presence case is.

3. Charge u/s 366, 376(2)(n) IPC, Section 5(I)/6, 8 and 12 of POCSO Act was framed against accused on 01.12.2023 to which he pleaded not guilty and claimed to be tried. Prosecution examined its witnesses and thereafter statement of accused recorded u/s 313 of the Cr.PC wherein he has stated that he is innocent and has falsely been implicated in this case.

4. Prosecution has examined altogether eight witnesses in this case. P.W.1 is victim, P.W.2 is father of victim, P.W.3 is brother of victim, P.W.4 is uncle of victim, P.W.5 is another uncle of victim, P.W.6 is cousin brother of victim, P.W.7 is Dr. Madhulika Rani and P.W.8 is S.I. Sarju Paswan.

Among documents of prosecution signature of victim over statement recorded U/s 164 Cr.PC is Ext. P-1/PW-1, signature of father of victim over written application is Ext. P-2 / PW-2, Medical report of victim is Ext. P-3/PW-7, Formal FIR is Ext. P-4/PW-8, Endorsement over

written report is Ext. P-2/1/PW-8 and statement of victim recorded U/s 164 Cr.PC is Ext. 5.

Accused has not examined any witness in his defence.

5. During course of argument learned defence counsel has submitted that accused is innocent and has falsely been implicated in this case. There is serious inconsistency in the statement of victim given before court during evidence and the statement given by her U/s 164 Cr.PC and such fact has even been admitted by herself. Ld. Defence counsel has further submitted that neither informant nor any other witness has supported the case story and prosecution has not been able to prove and establish the allegation against accused beyond all reasonable doubts, hence he may be acquitted.

6. On the other hand learned Spl. P.P. has submitted that prosecution case story is true and the victim has stood strong enough to support the case story and the occurrence happened with her. Other witnesses have also supported and corroborated the version of informant and nothing has been brought on record from the side of accused persons so as to disbelieve the prosecution case story. Learned Special P.P. has further submitted that the allegation levelled against accused has been proved by both ocular as well as well as documentary evidence and prosecution has become successful to establish the allegation against accused beyond all reasonable doubts, hence he may be punished.

7. Now the point for determination here is whether prosecution has been able to prove and establish the allegations against accused beyond all reasonable doubts.

FINDINGS

8. Sole accused of this case namely Ajay Kumar Sao @ Ajay Sao is facing trial U/s 366, 376(2)(n) IPC, Section 5(l)/6, 8 and 12 of POCSO Act.

9. In order to prove and establish the charge against accused prosecution has examined altogether 03 witnesses in this case. **PW-1** is alleged victim of this case. She has admitted her signature over statement given U/s 164 Cr.PC which has been marked as Ext. P-1/PW-

1. She has further stated during examination in chief that she left her studies after Class-Xth. At about 6 PM on the date of occurrence she had gone to the shop of her grandmother to bring Kurkure. Ajay Sao was chasing her since last two days. On the date of occurrence Ajay Sao came to the shop of her grandmother when she had come there. One person with motorcycle was there on road. Ajay Sao forcefully made her to sit over the motorcycle. He made her unconscious with some seductive putting over the nose. She found herself in a train when became in sense. When she asked Ajay Sao that to which place he was taking her then the accused put some seductive material in her mouth and again made her unconscious. In this way she was taken away by accused upto Karnataka and kept her in a lodge. She remained in the room of ten days where accused repeatedly committed rape upon her. She has further stated that her father lodged a case in police station then Ajay Sao brought her back under pressure of police. PW-1 has stated during cross examination that house of accused is situated at the distance of about 5-6 km from her house. Accused was chasing her since last two months. PW-1 has further stated during cross examination that her statement was recorded U/s 164 Cr.PC and all the facts stated there by her were correct. Now perusal of her statement as recorded U/s 164 Cr.PC (Ext. 5) shows that she was knowing accused since last one year. She had left the house herself and gone to Bangalore with accused. Both of them returned after seven days. Such version of PW-1 appears to be inconsistent from the version given by her during examination in chief as well as stated in the case story. PW-1 has further stated during cross examination that Ajay Sao had kept her in a room and used to provide her foot with some intoxicant due to which she used to remain under sub conscious condition. Later on she knew that Ajay Sao was a married man and having children. After knowing such fact she became disturbed and requested Ajay Sao for going to home. She has further again stated during cross examination that Ajay Sao used to make physical relationship with her. She even said to many people in the hotel but no one heard. She was under unconscious condition when boarded down the train.

PW-2 is father of victim who is also informant of this case. He has stated during examination in chief that on the date of occurrence when he returned from work in the evening he did not find his daughter in the home. When he asked from his wife she could not also say anything on this point. His daughter returned back to police station after 12 days and then she was brought back to home. He has also admitted his signature over written report. Most importantly this witness has not supported the case story due to which he has been declared hostile. He has stated during cross examination that her daughter left the home herself out of anger. She was born in the year 2003. He does not know the content of his written application nor the same were read over to him. He has further stated during cross examination that her daughter had returned back herself. She is a married girl and her marriage was solemnized in 2023. It is important to mention here that the case has also been instituted in the year 2023 itself. **PW-3** is brother of victim, **PW-4** is uncle of victim, **PW-5** is another uncle of victim and **PW-6** is cousin brother of victim. All these witnesses have not supported the case story and have simply stated that they do not know anything about the occurrence and all of them have even declined to identify the accused.

PW-7 is Dr. Madhulika Rani. She has stated during examination in chief that on 27.08.2023 victim was brought before her for medical examination but victim herself had refused for medical examination.

PW-8 is ASI Sarju Paswan who is I.O of this case. He has stated during examination in chief that he obtained job of investigation on 26.08.2023. After obtaining the job of investigation he recorded the statement of informant and thereafter he visited the place of occurrence. He recorded statement of witnesses and thereafter arrested the accused. He also got the statement of victim recorded U/s 164 Cr.PC and then obtained the copy of admit card of victim according to which her date of birth was found as 24.07.2006. After finding the occurrence to be true he submitted charge sheet against accused. During cross examination he has stated that he did not recover any material during investigation. He never visited Bangalore or Karnataka to find out the fact that where victim was kept there or not. He did not recover the victim rather she herself had came to

police station. PW-8 has further again stated during cross examination that victim herself had refused for medical examination. No other witness has been examined from the side of prosecution.

10. From the case story as brought before the court, evidence of prosecution as led thereupon what has come forward firstly that the informant who brought the law into motion by submitting his written application himself has not supported the case story. Victim has narrated the case story during her evidence but there has appeared some improbable facts therein because according to her version she was taken by accused from village upto Karnataka in a sub conscious condition that too by train and the victim herself has stated her age as 17 years then this version does not appear to be free from cloud of doubt. Further, she is alleged to be taken away by accused near from the shop of her grandmother but unfortunately grandmother of victim who might be the best corroborative witness has not been examined in this case. Statement given by victim U/s 164 Cr.PC is very much inconsistent with her statement given during evidence. It also appears to be improbable that she could not raise alarm even during the ten days alleged to be kept in hotel in Karnataka and when she herself has stated that she had told about the incident to many people. There is not even a single witness who is stated to have seen the accused taking away or bringing back the victim. Father of victim himself has stated that she had left home herself out of anger and she even returned back alone. Not only this, victim herself refused for medical examination and reason thereof has not been stated. It is true that the accused has to prove his innocence with regard to the allegation levelled against him under POCSO Act but it is also not relates true that prosecution has to establish first the fundamental/core facts of the case and here in this case prosecution has not been able to establish the fundamental of the manner of occurrence as brought before court.

11. From the facts and circumstances as discussed above in detail I am of the conclusion that prosecution has not been able to prove and establish the allegation levelled against the accused beyond all reasonable doubts. Consequently sole accused as named above and in this case is not found guilty, hence acquitted from this case.

12. Since the accused Ajay Kumar Sao @ Ajay Sao is under judicial custody, he is directed to be released henceforth.

*(Pronounced in the open Court
Dictated and Corrected by me)*

*(Ravi Shankar Mishra)
Special Judge
POCSO Act
Giridih
Dated 12.03.2026*

*(Ravi Shankar Mishra)
Special Judge
POCSO Act
Giridih
Dated 12.03.2026*

Appendix

List of Prosecution / Defence /Court Witnesses

A Prosecution

Rank	Name	Nature of Evidence (Eye Witness, Police Witness, Expert Witness, Medical Witness, Panch Witness, Otherwise)
P.W.1	victim	victim witness
P.W.2	Father of victim	Related witness
P.W.3	Brother of victim	Related witness
P.W.4	Uncle of victim	Related witness
P.W.5	Uncle of victim	Related witness
P.W.6	Cousin brother of victim	Related witness
P.W.7	Dr. Madhulika Rani	Medical witness
P.W.8	S.I. Sarju Paswan	Investigating Officer

B. Defence Witness, If any - Nil

C. Court Witness, If any - Nil

List of Prosecution/Defence/Court Exhibits

Sr No	Exhibit Number.	Description
1	Ext. P-1/PW-1	Signature of victim over statement recorded U/s 164 Cr.PC
2	Ext. P-2 / PW-2	Signature of father of victim over written application
3	Ext. P-3/PW-7	Medical report of victim
4	Ext. P-4/PW-8	Formal FIR
5	Ext. P-2/1/PW-8	Endorsement over written report
6	Ext. 5	Statement of victim recorded U/s 164 Cr.PC

B. Defence Exhibit. NIL

C. Court Exhibit. NIL

D. Material object. NIL

(Ravi Shankar Mishra)
Special Judge
POCSO Act,
Giridih
12.03.2026