

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Appeal (S.J.) No. 315 of 2025

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Murshed Ansari, aged about 23 years, S/o Late Yasin Ansari, R/o village- Gopaladih, P.O.- Gopaladih, P.S.- Barhet, District- Sahebganj, Jharkhand
.....Appellant

Versus

1. State of Jharkhand
2. Victim 'A'- cum-Mother of Victim 'B' & Victim 'C' D/o Lt. Chutar Pandit, Resident of village- Bagjori, P.O. & P.S.- Lalmatia, District- Godda, Jharkhand.

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Ashutosh Kr. Agrawal, Advocate
For the State : Mr. Pankaj Kumar, P.P.
Mr. Subodh Kr. Dubey, A.P.P.

Order No.13/29.04.2026

I.A. No. 1418 of 2026

1. Heard learned counsels appearing on both the sides.

2. This Criminal Appeal has been filed on behalf of the appellant by challenging the judgment of conviction dated 27.02.2025 and sentence dated 06.03.2025 passed by Sri Kumar Pawan, learned Special Judge (POCSO), Godda in connection with Special (POCSO) Case No. 30 of 2024 by which the appellant has been convicted for the offence under Section 354 of I.P.C. and under section 8 of the POCSO Act and sentenced him to undergo R.I. for four (04) years and to pay the fine of Rs. 20,000/- for committing the offence under section 8 of the POCSO Act and in default of payment of fine, he has further been sentenced to undergo S.I. for a period of six months separately. However, no separate sentence has been passed for committing the offence under Section 354 of I.P.C.

3. The prosecution case, in brief, is that the informant is a poor widow lady and she earns livelihood with her two children by doing labor work. It has further been stated that the informant got acquaintance with the appellant through Facebook and thereby upon the assurance of the accused, the informant along with her 2 daughters aged about 13 & 15 years proceeded to Bombay and reached there on 17.03.2023. The accused had taken a room on rent in the house of one person and all of them started to reside there but the accused started establishing physical relationship without her consent and on protest threat was extended to the informant. It is further alleged that informant was assaulted and abused by the appellant and the appellant even snatched her Rs. One lac and mobile of worth Rs. 26,000/-. The appellant also started to molest the daughters of the victim in different ways and also tried to commit unnatural offence with her said minor children due to which the informant and her children lived under the fear of accused. It is also alleged that the accused forcibly feed beef i.e. prohibited flesh to the informant and her children on the eve of Eid and started pressurizing her to convert their religion, and finally upon seeing option and arranging money the informant along with her children escaped from Bombay and arrived at her house on 17.05.2023. Then on the basis of the Complaint Case No. 17 of 2023 instituted by the informant-victim, subsequently Lalmatia P.S Case No. 55/2023 was instituted on 03.07.2023 under sections 295A, 323, 376(2) (n), 370, 371, 372, 504 of IPC and under Sections 4 & 8 of the POCSO Act and under Sections 4 & 5 of the Immoral Traffic (Prevention) Act, 1956.

4. Learned counsel for the appellant submits that earlier he had filed an I.A. No. 13124 of 2025 for grant of bail and which was withdrawn before this Court on 28.11.2025.

5. It is submitted that the judgment of conviction and sentence passed by the learned Trial Court is illegal and not sustainable in law. It is submitted that learned Trial Court has committed grave illegality while passing the judgment of conviction and sentence since the trial court failed to consider the inconsistent as well as exaggerated evidences adduced on behalf of the prosecution.

It is submitted that the learned Trial Court should have considered that last alleged occurrence took place on 17.05.2023 but without approaching to the concerned police station the present case was filed on 23.05.2023.

It is submitted that the learned Trial court failed to consider that the entire occurrence took place in Mumbai in between 16-03-2023 to 17-05-2023 but no complaint has been filed before Mumbai Police Station and the learned Trial court ought to have considered that the victim should have approached nearby police station at Mumbai.

Even after returning to Godda, no immediate legal recourse was taken rather for the first time on 23.05.2023 the complaint has been filed. It is submitted that learned Trial court should have considered that even the investigating officer had not visited Bombay to investigate the matter and trace out the entire and actual facts rather in mechanical manner on 04.03.2024 the charge sheet has been submitted.

6. It is further submitted that the learned Trial court failed to consider that only three prosecution witnesses had been examined on behalf of prosecution who are non else than the victim and her two prosecution's daughters, even their depositions are highly contradictory and inconsistent one and untrustworthy and do not inspire any confidence.

It is submitted that the learned Trial Court also failed to consider that there is nothing on record to suggest the actual age of the daughters of the informant and even the investigating officer has not collected any material to assess the actual age of the said informant's daughter coupled with the facts that no medical board has ever been constituted to determine the age of the victim.

It is submitted that the learned Trial court did not consider the exhibits adduced on behalf of the defence which itself suggest that informant is in habit of filing such type of cases and the exhibits also suggested that there is matrimonial dispute in between informant and her husband but even the informant has suppressed her marital status.

It is submitted that the learned Trial court has acquitted the appellant from the major part of the charges but committed illegality by convicting the appellant u/s 354 of IPC and Section 8 of POCSO without any substantive evidence.

7. It is submitted that the appellant is in custody since 14.01.2024 and has completed half of the sentence and i.e. two years and hence, he may be enlarged on bail.

8. Learned counsel for the appellant relies upon the order of Hon'ble Supreme Court in the case of *Saudan Singh versus The State of Uttar Pradesh* passed in *S.L.P. (Crl.) No. 4633 of 2021* and also in the case of *Atul alias Ashutosh vesus State of Madhya Pradesh* reported in *(2024) 3 SCC 663*.

9. On the other hand, learned A.P.P. has opposed the prayer for bail of the appellant. It is submitted that the order passed by the Trial Court is fit and proper and no interference is required.

10. It is submitted that there is direct allegations against the appellant for outraging the modesty of two victim girls of the informant who were aged about 13 and 15 years respectively. It is

submitted that the appellant has established physical relationship with the informant forcibly and also tried to commit rape upon the minor daughters of the informant. It is submitted that even the appellant tried to feed them beef on the occasion of Eid festival. It is submitted that P.W.2 is Victim-C and P.W.3 is Victim –B who are the victim girls and are aggrieved girls and they have fully supported the prosecution case that the accused-appellant used to touch them with bad intentions and tried to feed them beef on Eid festival. It is submitted that the informant of this case has fully supported her case and corroborated the evidence of P.W.2 and P.W.3 who are her daughters. It is submitted that the informant and the victim girls, in their statement recorded under Section 164 of Cr.P.C. marked as Exhibit-4, 4/1, 4/2, have fully supported the prosecution case. It is submitted that the main I.O is P.W.-6 who has supported the case of the victims. It is submitted that P.W.-5 and P.W.-6 have also supported and corroborated the prosecution case. It is submitted that the Trial Court has acquitted the appellant under sections 370 and 370(A) of I.P.C. and also acquitted the appellant under Sections 376(2)(n), 376(3), 323, 504, 506, 379 of I.P.C and under Section 4 of Jharkhand Freedom of Religion Act, 2017 and under Section 6 of the POCSO Act but has held the appellant guilty under section 354 of I.P.C. and under Section 8 of the POCSO Act, hence, the prayer for bail of the appellant may be rejected.

11. Perused the Trial Court Record and considered the submission of both the sides.

12. It transpires from the F.I.R. that the appellant is accused of committing rape upon the informant by forcibly establishing physical relationship with her.

13. It transpires that the Trial Court has acquitted the

appellant under Section 370 and 370(A) of I.P.C. and also acquitted the appellant under Sections 376(2)(n), 376(3), 323, 504, 506, 379 of I.P.C and under Section 6 of the POCSO Act and under Section 4 of Jharkhand Freedom of Religion Act, 2017.

14. Section 3 & 4 Jharkhand Freedom of Religion Act, 2017 of which read as under:-

“Section 3:- Prohibition of forcible conversion.

No person shall convert or attempt to convert, either directly or otherwise, any person from one religion/religious faith to another by the use of force or by allurement or by any fraudulent means, nor shall any person abet any such conversion.

Section 4:-Punishment for contravention of the provision of Section 3.

Any person contravening the provision contained in Section 3 shall, without prejudice to any civil liability be punishable with imprisonment which may extend to three years or with fine which may extent to fifty thousand rupees or with both; Provided that in case the offence is committed in respect of a minor, a women or a person belonging to the Schedule Castes or Scheduled Tribes, the punishment shall be imprisonment to the extent of four years and fine up to one hundred thousand rupees (one lakh rupees);”

15. It appears from the F.I.R. that there is direct allegation against the appellant for establishing physical relationship forcibly everyday with the informant in presence of her both the daughters and on protest he threatened to kill all the three and tortured them. It is also alleged that the appellant used to caught hold of both of her victim daughters and used to press their breasts and also used to commit immoral acts with the victim girls and due to which they were annoyed and they were in terror. It is also alleged in the F.I.R. that on the occasion of Eid festival, the appellant forced the informant and her daughters to eat beef and pressurized them to change their religion and the appellant also tried to sell the daughters of the informant by bringing new customers everyday and used to show their prices and due to assault of the appellant, the prosecutrix had become black. However, the informant saved

herself and her two children by fleeing from Bombay anyhow on 17.05.2023 and returned to her house.

16. It further appears from the statement of informant recorded under section 164 of the Cr.P.C. that she has supported her allegation as made out in the F.I.R. and stated that she along with her two daughters came to Mumbai on 17.03.2023 from Bhagalpur and the appellant took her to Mumbai and got her employed and then she started living with *Murshed*, (i.e. the appellant) and she lived properly for around one week. Thereafter, the appellant started establishing physical relationship with her and used to assault her and used to see her both daughters with bad intention and the appellant has also withdrawn one lakh rupees (Rs. 1,00,000/-) from the bank account of her daughter and the appellant had also made her indecent video viral on the Facebook.

17. It further appears from the statement of victim girl (i.e. P.W.-2), aged around 13 years that she along with her sister and mother with the appellant, namely, *Murshed* and the appellant used to make indecent behaviour with them and used to see them with bad intention and used to assault her mother. She also alleged that the appellant tried to give them beef for eating. Thus, the victim girl (i.e. P.W.-2) has supported the allegation against the appellant.

18. Even from the statement of victim girl (i.e. P.W.-3) aged around 15 years recorded under Section 164 of Cr.P.C., it appears from the statement of victim girl (i.e. P.W.-3) that she along with her sister and mother came to Mumbai with the appellant, namely, *Murshed* and the appellant had taken away one lakh rupees (Rs. 1,00,000/-) from her bank account. She also alleged that the appellant used to open the clothes of both the sisters and used to touch their entire body and he wanted to do dirty work with them, however, they fled away from his house.

Thus, the another victim girl has also supported the allegation against the appellant.

19. However, it reveals from the Trial Court record that the informant has not given her consent for her medical examination, which is evident from Exhibit-5 and even both the victim girl-B and victim girl-C had not given their consent for their medical examination, which is evident from Exhibit- 5/1 and Exhibit- 5/2 which are the letters sent by S.I., Lalmatiya P.S. to Medical Officer, Sadar Hospital, Godda dated 25.07.2023.

20. It further reveals the charges were framed against the appellant under sections 370, 370(A), 376(2)(n), 376(3), 354(b), 323, 504, 506, 379 of I.P.C and under Section 4 of the Jharkhand Freedom of Religion Act and also under Section 6 and 8 of the POCSO Act.

21. So far as the oral evidence is concerned, P.W.-1 is victim-informant (name not being disclosed due to guidelines of the Hon'ble Supreme Court) and she stated during her evidence that she developed friendship with the appellant on her Facebook in the year 2023 who came to Bhagalpur and with whom she along with her two daughters, aged around 13 and 15 years respectively went to Mumbai and they had taken one room on rent with the appellant in Mumbai. She stated that the accused-appellant used to establish physical relationship with her everyday and also pressed the breasts of both of her daughters and tried to commit rape upon them and also used to assault them. Then anyhow, she along with her both daughters fled away and returned to their house. She also alleged that the accused-appellant tried to feed them beef, but they did not eat and fled away from the house of appellant. She has proved her signature on the complaint marked as Exhibit-1 and proved her signature on her statement recorded under Section 164

of Cr.P.C marked as Exhibit-2. However, she admitted that she had not given consent for the medical examination and put her signature on the application marked as Exhibit-3.

22. During cross-examination, she has stated to have instituted one similar nature of case against one, Kadir Ansari which is pending in Civil Courts, Godda, but she has not compromised that case.

She admitted for going to Mumbai for earning and used to live with her daughters, but she had not instituted any case against any person in Mumbai.

She stated that her husband is one, Birendra Pandit however, she had denied that her second husband is Pramod Pandit against whom she has instituted a case of dowry torture, but however, she admitted to have instituted one complaint case No. 195/2020 against her husband Birendra Pandit.

23. She admitted that due to case instituted by her against one Kadir Ansari, S.T. Case No. 299/2022 and S.T. Case No. 79/2024 are also pending. She stated that she has got three daughters and elder daughter is aged 20 years and the eldest daughter is also married. However, she denied the suggestions to have not instituted any case against any persons at Pattargama, Godda and Lalmatiya P.S. She also denied to have instituted several cases against various persons.

24. Thus, from scrutinizing the evidence of P.W.-1, it is evident that she is the informant and the mother of the victim girls and claimed that she has been subjected to sexual harassment and the appellant has forcibly established physical relationship with her, but she did not give consent for medical examination. She also admitted to have instituted two cases against one Kadir Ansari. However, she had denied for instituting such cases against various

other persons in the different Police Stations of Godda.

25. P.W.-2 is victim girl-X aged around 14 years and during her evidence she stated that while she along with her mother and younger sister were living in Mumbai, the appellant then used to touch her with bad intention and was trying to feed them beef. She also stated that the appellant used to do bad work with her sister and mother and her mother had instituted the case against the appellant after returning from Mumbai. She admitted her signature on the statement recorded before the Court marked as Exhibit- 2/1 and also her signature on the application filed for medical examination marked as Exhibit-3/1.

During cross-examination she stated that she used to go to the house of her father and her elder sister is married. She was shown photograph marked as Exhibit-A in which she stated that her mother is sitting with one boy of her neighbour.

Thus, P.W.-2 has also supported the allegations made in the F.I.R and mere such photograph of her mother will not discredit her entire evidence.

26. P.W.-3 is the victim girl-B aged around 15 years and has supported the F.I.R. by stating that the accused-appellant took them to Mumbai and kept them in a rented house for around one month and where the appellant used to establish physical relationship with her mother forcibly and he also used to touch her body and the body of her younger sister and thereafter they returned to their residence. She proved her signature in the statement recorded under Section 164 of Cr.P.C. marked as Exhibit-2/2 and on the application for medical test marked as Exhibit- 3/2.

During cross-examination she stated that she used to do labour work in Mumbai and was earning Rs. 250 everyday by

carrying bricks on her head.

Thus, P.W.-3 has also supported the allegation against the appellant.

27. P.W.-4 is Sri Divyam Choudhary, learned Judicial Magistrate and has proved the statement of the informant and the victim girls recorded under section 164 Cr.P.C. marked as Exhibit- 4, 4/1, 4/2 respectively.

28. P.W.-6 is S.I. Jitendra Kumar Verma, who is the first I.O. has stated to give the investigation of this case from Officer-in-charge Chandreshekar Singh and he put the endorsement of officer-in-charge marked as Exhibit- 1/1 and as per the proof, his signature on the former F.I.R., marked as Exhibit- 1/2. He has further proved application submitted for medical test of informant and her two daughters, marked as Exhibit- 5, 5/1 and 5/2 respectively, but due to not giving consent by the three victims, their medical examination could not be done. However, the statements of all three victims, under Section 164 of Cr.P.C., were recorded on 25.07.2023.

Thereafter, he had inspected the place of occurrence which is situated at village Bagjori and which is of two rooms pakka house of the informant. He stated that the informant had informed him that his family members and neighbours will not give statement and then he learnt that the accused, named in the F.I.R., is living in Mumbai. Therefore, he obtained his warrant and he had arrested the accused on 14.01.2024 and has proved the arrest memo marked as Exhibit- 6. On further enquiry from the informant, it was informed to him by the prosecutrix that her both daughters have never gone to school and she has produced the Aadhar cards showing date of birth of the informant as 01.01.1989 and one of her daughter (victim) as 13.11.2008 but had not

produced any document of regarding date of birth of younger daughter (victim) which were marked for identification as Mark-X & X/1 respectively. Thereafter, he had handed over the investigation of this case to officer-in-charge, Lalmatiya, Pradeep Kumar Das.

29. During cross-examination, he learnt from the mother of the informant that she has no information regarding informant, but the informant used to remain in dispute and due to which they have no contact with the informant and the informant is living separately from her husband after taking divorce.

The I.O. admitted that the occurrence took place with the appellant in Mumbai, but he had never gone to Mumbai for investigation. He admitted that the victim-informant had instituted such case upon various persons, but he has not done any investigation in this regard.

Thus, P.W.-6 is the main I.O. and his evidence supports the prosecution case.

30. P.W.-5 is S.I. Rahul Kumar, who is the first I.O. and has stated that he had taken over investigation from the earlier I.O.-cum-Officer-in-charge Pradeep Kumar Das on 24.02.2024. Thereafter, he had obtained the prosecution sanction against the appellant from the office of D.C.-cum-District Magistrate, Godda and has submitted that charge sheet against the appellant.

During cross-examination, he stated that he had submitted charge sheet against the appellant on the instructions of his senior officers.

31. Although, the learned counsel for the appellant has tried to discredit the evidence of the informant on the ground that she had instituted a similar type of case against some other persons including Kadir Ansari.

32. However, this Court finds that the informant-prosecutrix along with her two daughters had resided with the appellant in Mumbai and the appellant is said to have outraged the modesty and used to touch the private parts of the victim-girl, this Court is not inclined to enlarge the appellant on bail and hence, the prayer for bail of the appellant is rejected at this stage.

33. However, the appellant will be at liberty to renew his prayer for bail after completion of two and a half years (2 ½) years of sentence.

34. Accordingly, I.A. No. 1418 of 2026 is hereby rejected.

(Sanjay Prasad, J.)

Dated: 29.04.2026

Vedanti/-