

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 256 of 2008

Uday Yadav, son of Khublal Yadav, resident of Road No.11, Adityapur,
P.S.-R.I.T., District-Seraikella-Kharsawan

... .. **Appellant**

Versus

The State of Jharkhand

... .. **Respondent**

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

For the Appellant

: Mr. R.C.P. Sah, Advocate

For the State

: Mr. Tarun Kumar, A.P.P.

JUDGMENT

Dated: 08th April, 2026

1. Heard Mr. R.C.P. Sah, learned counsel for the appellant and learned A.P.P. for the State.

2. The instant criminal appeal is directed against the judgment of conviction and sentence both dated 07.02.2008 passed by learned Additional Sessions Judge, F.T.C., IInd Seraikella-Kharsawan, whereby and whereunder the appellant has been convicted under Sections 354 & 323 of I.P.C. and sentenced to undergo R.I. for 2 years under Section 354 of I.P.C. and further sentenced to undergo R.I. for 6 months under Section 323 of I.P.C. Both the sentences were directed to run concurrently.

Factual Matrix

3. The factual matrix giving rise to this appeal is that on the intervening night of 23/24.09.2004, at about 12:00 to 01:00 O' clock, the accused, namely Uday Yadav, entered into the house of the informant by opening the door. Upon hearing the sound, the informant woke up, whereupon the accused caught hold of the informant's hand and while she tried to raise *hulla* the accused pressed her mouth. During the course of incident, the accused caused injury to the right cheek of the informant with his teeth. The accused with the intention to commit rape upon her

caught hold the informant. When the children of the informant heard the noise, they also woke up due to which the accused fled away from the place of occurrence. The husband of the informant was not present at the house during the said night. On the next morning, upon the return of her husband, the informant disclosed the entire occurrence to him and thereafter, both of them proceeded to the police station and submitted a written report.

4. On the basis of written report of informant Adityapur (R.I.T.) P.S. Case No. 210 of 2004 has been registered under Sections 448, 376, 511 & 324 of I.P.C. After completion of investigation charge-sheet has been submitted. After taking cognizance the case was committed to the Court of Sessions on 06.01.2005 where S.T. Case No. 08 of 2005 was registered.

5. Defence case is that the accused is quite innocent, he has been falsely implicated in the case and the defence has denied the entire allegations leveled against the accused.

6. After conclusion of trial impugned judgment and order has been passed which has been assailed in this appeal.

Submissions on behalf of the appellant

7. Learned counsel for the appellant submits that the appellant has been held guilty for the offence under Sections 354 & 323 of I.P.C. There was simple allegation that in the night, while victim lady who happens to be married lady was sleeping, the present appellant entered into room and indecently assaulted, due to alarm raised by her, the daughters of the victim lady woke up then the present appellant fled away.

8. The learned counsel for the appellant without touching the merits of

the judgment submitted that it was first offence of the appellant and he had never been convicted for any other offence prior to the occurrence. The learned trial Court without recording any special reasons has failed to extend the benefit of Section 4 of the Probation of Offenders Act to the appellant to which he deserves. Therefore, this appeal may be disposed of by extending the benefit of Section 4 of the Probation of Offenders Act.

Submissions on behalf of the State

9. On the other hand learned A.P.P. for the State has defended the judgment on merits but has admitted that the appellant may be extended the benefit of the Probation of Offenders Act.

10. In view of the aforesaid facts and circumstances, I find that on merits there is no illegal or infirmity in the impugned judgment, therefore, the conviction of the appellant is upheld. So far substantive sentence of imprisonment is concerned, it stands modified to the extent that the appellant deserves to be released on probation for good conduct under Section 4 of the Probation of Offenders Act.

11. In view of above, this appeal is **dismissed** on merits with the modification to the extent that instead of undergoing substantive sentence of imprisonment awarded to the appellant by learned trial Court, the appellant is hereby directed to be released on furnishing bond of Rs.5000/- with one surety for maintaining peace and be of good behavior for one year from the date of furnishing the bond under Section 4 of the Probation of Offenders Act, 1958.

12. The appellant is directed to furnish the said bond within three months from the date of this order, otherwise the learned trial Court shall

call upon him to furnish the bond. In case of violation of the terms and conditions of the bond, the appellant shall be called upon by learned trial Court to receive the sentence awarded to him.

13. Pending I.A.(s), if any, is also disposed of accordingly.

14. Let a copy of this judgment along with trial Court Record be sent back to the concerned court for information and needful.

(Pradeep Kumar Srivastava, J.)

08.04.2026

Arpit

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