

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (SJ) No. 368 of 2025

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Surendra Singh @ Saroj Singh, aged about 54 years, S/o Late Madan Singh, R/o Village- Shirrampur, Kangoi, Mihijam, PO & PS- Mihijam, District- Jamtara (Jharkhand) **Appellant**

Versus

1. The State of Jharkhand
2. Victim-X through father **Respondents**

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Rajendra Krishna, Advocate
Mr. Govind Ray Karan, Advocate
For the State : Mr. Ajay Kumar Pathak, A. P. P.
For the Informant : Ms. Nidhi Singh, Advocate

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ORAL ORDER IN COURT

I. A. No. 12248 of 2025

03/16.09.2025 Call for the explanation from Sri Santosh Kumar No. 2, learned Special Judge, POCSO, Jamtara for mentioning the name of the informant i.e. the father of the victim girl examined as P.W.-3 and name of the mother of the victim girl examined as P.W.-5 in violation of the judgment rendered in the case of Nipun Saxena and Anr. Versus Union of India reported in (2019) 2 SCC 703.

2. Let the explanation be called for through the learned Registrar General of this Court from Sri Santosh Kumar No. 2, learned Special Judge, POCSO, Jamtara and with a direction to remain careful in future as there is complete prohibition for mentioning the name of the victim and her family members at the time of deposition.

3. Let a copy of this order be sent to the learned Registrar General and also to learned Principal District and Sessions Judge, Jamtara and Sri Santosh Kumar No. 2, learned Special Judge, POCSO, Jamtara by FAX for the needful.

4. This Criminal Appeal has been filed on behalf of the

appellant challenging the impugned judgment of conviction and sentence dated 26.03.2025 passed by Sri Santosh Kumar No. 2, learned Special Judge, POCSO, Jamtara in connection with Mihijam P. S. Case No. 81 of 2022 corresponding to Special POCSO Case No. 14 of 2023 by which the appellant has been held guilty for the offences under Section 354-A of the Indian Penal Code and Section 8 of the POCSO Act and sentenced to undergo R. I. for a period of five (5) years and to pay the fine of Rs. 10,000/- for the offence under Section 8 of the POCSO Act.

However, no separate sentence has been passed for the offence 354-A of the Indian Penal Code, rather sentence passed against the appellant under Section 8 of the POCSO Act has been treated as the sufficient sentence indulging Section 354-A of the Indian Penal Code.

5. I. A. No. 12248 of 2025 has been filed under Section 430 (1) of the BNSS, 2023 on behalf of the appellant for suspension of sentence and for grant of bail of the appellant during the pendency of this appeal.

6. As per the FIR, the appellant is alleged to have called the victim girl in his house on 12.08.2022 and touched her with bad intention in her inner pants and the F.I.R was lodged on 15.08.2022.

7. Heard Mr. Rajendra Krishna, learned counsel for the appellant, Mr. Ajay Kumar Pathak, learned counsel for the State and Ms. Nidhi Singh, learned counsel for the Informant.

8. It is submitted by the learned counsel for the appellant that the impugned judgment of conviction and sentence passed by the learned Trial Court is illegal and not sustainable in law. It is submitted that the appellant and father of the victim girl are neighbours to each other and there is dispute with regard to felling the water in gali. It is submitted that earlier FIR was lodged, but the police had examined the independent witnesses namely Krishna

Tiwari, Sanjeet Kumar, Laxmi Devi at para-8, 9 and 10 of the case diary and also examined the relevant facts and had submitted final form. Thereafter on the basis of filing Protest Petition filed by the informant, cognizance was taken and trial began and finally, the appellant has been convicted.

It is submitted that there is contradiction in the evidence of P.W.-1 during her statement recorded under Section 164 of the Cr. P. C. and during her evidence before the learned Trial Court below. It is submitted that there is also contradiction in the evidence of P.W.-4, Rakesh Kumar Tiwari @ Guddu during trial and while himself examined as Enquiry Witness on Solemn Affirmation. It is submitted that the evidence of the mother of the victim girl examined as P.W.-5, is also not reliable as she is under the influence of the Informant. It is submitted that earlier the appellant was in custody for some period during the trial and thereafter he is in custody since 26.03.2025 and hence, the appellant may be enlarged on bail.

9. On the other hand, learned counsel for the State has opposed the prayer for bail and submitted that the victim girl had supported her case during her statement recorded under Section 164 Cr. P. C. and also supported the allegation against the appellant for touching her with bad intention in her undergarment. It is submitted that even during cross-examination, she has denied the suggestion that she has lodged false case due to land dispute. Thus, the victim girl has fully supported the case. It is submitted that P.W.-2, P.W.-3 and P.W.-4 have also fully supported the prosecution case. It is submitted that the Informant had been examined as P.W.-3 and he had fully supported his case whereas P.W.-5 i.e the mother of the victim girl and she had also supported the case and hence the prayer for bail of the appellant may be rejected.

10. Learned counsel for the Informant, after adopting the

submission of learned A. P. P. has further submitted that the victim girl is aged around seven (7) years and five (5) months on the date of occurrence and she had fully supported her case. It is submitted that P.W.-2, Rameshwar Tiwari and P.W.-3 i.e. father of the victim girl, P.W.-4, Rakesh Kumar Tiwari @ Guddu and P.W.-5 i.e the mother of the victim girl have fully supported the prosecution case. It is submitted that the victim girl also stated that appellant had called in his house and put his hand under her Undergarment with bad intention and kissed her and threatened her not to disclose this fact to anyone. Even during cross-examination, she has supported the prosecution case and had stood the test of cross-examination and hence, the prayer for bail of the appellant may be rejected.

11. Perused the FIR, Charge-sheet, Protest Petition and statement of prosecution witnesses examined during trial and considered the submissions of both the sides.

12. It appears that the F.I.R was lodged by the informant against the appellant on 13.08.2022 for the reason that he had teased and sexually assaulted the victim girl by putting his hand inside her undergarments.

13. It appears that the victim girl while examined as P.W-1, has stated that while she was playing with one Madhu Didi and her elder sister then the appellant called her and took her to his house and tried to tease her. However, she had not disclosed this fact neither to the said Madhu Didi nor to her sister but she informed her mother.

14. It further appears that P.W-2 is Rameshwar Tiwari and who has supported the prosecution case but his cross-examination at para- 6 and 7 reveals that he is Social Worker and he had lodged the F.I.R and he was called upon in police station for writing the F.I.R. He also stated that Panchayati had taken place in the Village and he was also present in the Panchayati but this part of his evidence is

completely different from the F.I.R and the statement of the other prosecution witnesses. He also stated that he along with Kinkar Rai does social work.

Thus, P.W.-2 appears to be an interested witness.

15. It further appears that P.W-3 is the father of the victim girl and he supported the prosecution case by stating that the appellant had called the victim girl in his house and he had done the overt act of kissing and trying to put his hand under her undergarments. However, during cross-examination, he also admitted at Para-6 that there is a “Gali” between his house and the house of the appellant and water of his house falls in the field while his daughter was playing in the “Gali” along with Madhu Didi and his elder daughter. He had denied the suggestion of dispute between him and the appellant with regard to “Gali”.

16. It further appears that P.W-4 is one Rakesh Kumar Tiwari @ Guddu and who has also tried to support the prosecution case. However, during cross-examination, he stated that the father of the informant has constructed one ‘Khatal’ in the Government Land whereas, his father has constructed temple on the Government Land. He also stated that he had not seen the occurrence and he is not aware of any dispute.

Thus, P.W-4 appears to be an interested witness.

17. It appears that P.W-5 is the mother of victim girl and who also supported the prosecution case. However, during cross-examination, she admitted that she lives in a joint family having Jeth, Jethani, Father-in-law and Mother-in-law and his Father-in-law is aware of the occurrence. She also stated that the application given to the police station was written by her husband.

18. It appears that I.O of this case has not been examined, though he had submitted final form.

19. It further appears that the appellant and the informant are

neighbours. It also appears from the evidence of P.W-1 and P.W-5 that they were on visiting terms, prior to the occurrence.

20. It appears from the evidence of P.W.-5 that she lived in a joint family consistent of her husband herself, father in-law, mother in-law, Jeth and Jethani etc. but the prosecution has not produced Jeth, Jethani, father in-law or mother in-law of the P.W.-5 in support of allegations, rather they had produced P.W.-2, Rameshwar Tiwari and P.W.-4, Rakesh Kumar Tiwari @ Guddu, who are outsider and hearsay witnesses.

21. It appears that the police has submitted final form in respect of the allegation against the appellant. However, later on, the case proceeded on the basis of Protest Petition filed by the Informant.

22. Considering the facts and circumstances of this case, the appellant namely Surendra Singh @ Saroj Singh is directed to be released on bail on furnishing bail bonds of Rs. 20,000/- with two sureties of the like amount each to the satisfaction of Sri Santosh Kumar No. 2, learned Special Judge, POCSO, Jamtara/ or his Successor Court in connection with Mihijam P. S. Case No. 81 of 2022 corresponding to Special POCSO Case No. 14 of 2023 subject to the condition that one of the bailors must be the own blood relation of the appellant.

23. Thus, I.A No. 12248 of 2025 is allowed and stands disposed of.

(Sanjay Prasad, J.)

Dated 16.09.2025
Kamlesh/