

IN THE HIGH COURT OF JHARKHAND AT RANCHI

Cr. Appeal (S.J) No. 711 of 2024

Raju Rai @ Rajen Rai Appellant
Versus
1.The State of Jharkhand
2.Ashok Kumar Napit Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Saurav Kumar, Advocate
For the State : Mr. Satish Kumar Keshri, APP

07/Dated:18th September, 2025

Call for explanation from Sri Prabhakar Singh, learned Special Judge, POCSO Act, Dhanbad for mentioning the name of Victim girl, father of the Victim girl, Uncle and Aunts of the Victim girl in the deposition while their evidence were recorded as P.W-1, P.W-2, P.W-3, P.W-4 and P.W-5 respectively, in violation of the judgment passed in the case of *Nipun Saxena and Anr. vs. Union of India*) reported in **(2019) 2 SCC 703**.

2. Let the explanation be called for through learned Registrar (Judicial) and may be placed before this Court.

3. Let a copy of this order be sent to the learned Principal District and Sessions Judge, Dhanbad by FAX who may communicate the same to Sri Prabhakar Singh, learned Special Judge, POCSO Act, Dhanbad.

I.A. No.1591 of 2025

4. This Criminal Appeal has been filed on behalf of the appellant challenging the judgment of conviction dated 04.01.2024 and sentence dated 05.01.2024 passed in Spl. (POCSO) Case No.133 of 2021, arising out of Govindpur P.S. Case No.214 of 2021 by Sri Prabhakar Singh, learned Special Judge, POCSO Act, Dhanbad by which the appellant has been convicted for the offence under section 366 of the IPC and

section 8 of the POCSO Act and sentenced to undergo R.I for five (05) and to pay the fine of Rs.2,000/- and R.I for five (05) and to pay the fine of Rs.2,000/- . However, both the sentences have been directed to run concurrently.

5. As per FIR, it is alleged by the informant (i.e. father of the Victim girl) that the Victim daughter aged around 17 years left her house on 19.06.2021 at around 10.00 p.m without informing anyone. However, later on during course of search, it was learnt that his co-villager Raju Rai i.e. the appellant took her somewhere with bad intention. When the informant searched his daughter in the house of his relatives, he could not locate her.

6. I.A. No.1591 of 2025 has been filed on behalf of the appellant for suspension of sentence and grant of bail, during pendency of this Criminal Appeal.

7. Heard Mr. Saurav Kumar, learned counsel for the appellant who has appeared through Jharkhand High Court Legal Services Committee and Mr. Satish Kumar Keshri, learned APP for the State.

8. Learned counsel for the appellant submitted that the impugned judgment and sentence passed by the learned Court below is illegal, arbitrary and not sustainable in the eye of law. It is submitted that the appellant has been convicted on mere suspicion and as a matter of fact, the appellant had gone to Madhupur with the instruction of mother of the Victim girl to bring her back but he was stopped by the Police Officials of the Madhupur Police Station at the instance of her father. It is submitted that the Victim girl was acquainted with his sister and both the parties were known to each other. It is submitted that the Victim while examined as P.W-1 has stated during her evidence that the appellant and one unknown boy had taken her by the Motorcycle, however, she could not disclose the name of

other person. Even the I.O examined as P.W.-7 could not state about the said second boy and hence the prosecution case is suspicious. It is submitted that the allegation of teasing and trying to do some wrong work with the Victim girl is not correct as the Victim girl has not raised any alarm while she was being taken by the appellant and one another unknown boy on their Motorcycle. It is submitted that the P.W-2 i.e. the father of the Victim girl has stated in his cross-examination that he had named the appellant on mere suspicion. It is submitted that the her daughter with her friend had went out for attending the marriage ceremony but when she was not found in the house of the appellant then he informed the matter to the police.

9. It is submitted that P.W-3, P.W-4 and P.W-5 are also not reliable as they are interested witnesses and close relative of the informant. It is submitted that the I.O has admitted during cross-examination that he could not found the name of other boy who was present with the appellant while the Victim girl was taken to some other place, during course of evidence. It is submitted that the evidence of defence witnesses as D.W-1 and D.W-2 was not considered. D.W-1, who is the appellant himself and who had disclosed the correct fact regarding the occurrence whereas D.W-2 also stated that the police had instituted the case against the appellant whereas the family members of the informant were not willing to institute the case. It is submitted that the appellant had remained in custody from 24.06.2021 to 16.05.2023 i.e. for around two years and thereafter he is in custody since 04.01.2024 i.e. for around one year and nine months and thus he has remained in custody almost for around three (03) years and eight (08) months and hence, he may be enlarged on bail.

10. On the other hand, learned APP has opposed the prayer for bail. It is submitted that there is direct allegation against the

appellant for enticing the minor daughter of the informant who was aged around 17 years and 05 months. It is submitted that Victim girl i.e. P.W-1 during her statement recorded under section 164 of the Cr.P.C, has fully supported the case against the appellant. It is submitted that the Victim girl while examined as P.W-1 has also supported her case and stated the appellant had tried to commit wrong work with her and used to tease her. Thus, the act of the appellant is proved from the evidence of P.W-1, P.W-2, P.W-3, P.W-4 and P.W-5 i.e. the Victim girl herself and also the father, uncle and two aunts of the Victim have also supported the case and have stated that the appellant taken away the appellant with ulterior motive. It is submitted that the I.O has submitted charge sheet against the appellant and has also supported and corroborated the prosecution case and hence the prayer for bail of the appellant may be rejected.

11. Having heard learned counsel for the parties and on going through the records, it appears that the Victim girl was allegedly found missing from her house on 19.06.2021 but the F.I.R was lodged on 22.06.2021 i.e. after delay of three days.

12. It appears from the statement of Victim girl recorded under section 164 Cr.P.C that when she rang mobile of the sister of the appellant then the said phone was received by the appellant and who asked her to come outside and had seen that two persons were standing outside and got her forcibly seated on the Motorcycle and threatened her and the appellant took her in the house of his relative for around three days.

13. Thus, the statement of the Victim girl reveals that she had voluntarily gone with the appellant without raising any alarm and she has not raised any alarm even in the house of the relative of the appellant.

14. From perusal of the statement of the Victim girl while examined as P.W-1, it would appear that she has made allegation of teasing and for trying to commit wrong work by the appellant upon her.

However, during cross-examination, she stated that she is well acquainted with the sister of the appellant namely, Sonali. She also admitted to have not raised any alarm while she was being taken. She also admitted that her date of birth is recorded in Aadhar Card of the year 2002 which was prepared by her father.

Thus, from the evidence of P.W-1-Victim girl, it is evident that she had not raised any alarm while she was being taken by the appellant on the Motorcycle.

15. It reveals that P.W-2 is the father of the Victim girl, who has stated during evidence that appellant, has enticed his daughter somewhere. However, he has not made any specific allegation of any overt act against the appellant for doing wrong work with the Victim girl. He also admitted that he had also prepared Aadhar Card of his daughter.

16. It appears that P.W-3, P.W-4 and P.W-5 were the interested witnesses, who are the family members. It also appears from the evidence of P.W-7 i.e. I.O that he could not record the name of the second body who was sitting with the appellant and the Victim girl on the Motorcycle.

17. It appears that the age of the Victim girl has been shown as 17 years and 05 months on the basis of Admission Register and in which her date of birth was recorded as 05.01.2004 which was contrary to the year 2002 as mentioned in the Aadhar Card of the Victim girl.

18. Considering the facts and circumstances of the case and considering the custody of the appellant, the appellant namely

Raju Rai @ Rajen Rai is directed to be released on bail, on furnishing bail bonds of Rs.15,000/- (Fifteen thousand only) with two sureties of the like amount each, to the satisfaction of Sri Prabhakar Singh, learned Special Judge, POCSO Act, Dhanbad in Spl. (POCSO) Case No.133 of 2021, arising out of Govindpur P.S. Case No.214 of 2021.

19. Thus, I.A. No.1591 of 2025 is allowed and stands disposed of.

20. Let a copy of this order be sent to the learned Member Secretary, Jharkhand High Court Legal Services Committee who will communicate this order to the family members of the appellant to file the bail bonds.

21. The Secretary, DLSA, Dhanbad is also directed to inform about the order passed today, to the family members of the appellant through PLV.

22. Let a copy of this order be sent to the learned Court below by FAX.

(Sanjay Prasad, J.)

Dated:18.09.2025
Saket/-