

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S. J.) No 750 of 2024

.....
Sumit Kumar Paswan @ Sumit Paswan @ Guddu Paswan
..... **Appellant**

Versus

The State of Jharkhand
..... **Respondent**

CORAM: HON'BLE MR. JUSTICE SANJAY PRASAD

For the Appellant : Mr. Pratiush Lala, Advocate
For the State : Mr. Shashi Kumar Verma, A. P. P.

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Order No: 07/Dated: 08.05.2025

This Criminal Appeal has been filed on behalf of the appellant by challenging the judgment of conviction dated 03.10.2024 and sentence dated 04.10.2024 passed by the learned Special Judge, POCSO Act, Dhanbad by which the appellant has been convicted for the offence under Sections 8 and 12 of the POCSO Act and sentenced to undergo R.I for four (04) years and to pay the fine of Rs. 5,000/- for the offence under Section 8 of the POCSO Act and R.I for three (03) years and to pay the fine of Rs. 2,000/- for the offence under Section 12 of the POCSO Act.

I.A No. 4798 of 2025

2. I.A No. 4798 of 2025 has been filed on behalf appellant for suspension of sentence and for grant of bail during pendency of this Criminal Appeal.

3. The victim girl aged around 17 and half years had submitted written application before the Officer-in-Charge on 09.03.2024 alleging therein that the appellant Sumit Kumar Paswan @ Sumit Paswan @ Guddu Paswan used to tease her forcibly while she used to go to her college alone and used to see

her with bad intention and threatened her to the extent that she cannot become of anyone else except him due to which, she was so scared that she left her college. However, the appellant used to arrive at her residence by knocking her door and used to touch her body and threatened her for throwing acid upon her face. It is also alleged that on 06.03.2024 at around 04:00 P.M to 04:30 P.M in the evening the appellant had entered into her house and tried to establish physical relationship with her and due to which she raised alarm. Then, her mother came running from the parlour and saved her from the clutches of the appellant Sumit Kumar Paswan @ Sumit Paswan @ Guddu Paswan.

4. Heard Mr. Pratiush Lala, learned counsel for the appellant and Mr. Shashi Kumar Verma, learned counsel for the State.

5. Learned counsel for the appellant has submitted that the impugned judgment of conviction and sentence passed by the learned Court below are illegal, arbitrary and not sustainable in the eye of law. It is submitted that the prosecution witnesses have given contradictory statement against each other. It is submitted that the date of occurrence is 06.03.2024 and date of institution of F.I.R is 09.03.2024 and there is an inordinate delay in lodging of the F.I.R. It is submitted that the victim girl had been in WhatsApp conversation with the appellant for last several months and her photographs also reveal about the cordial relationship between the victim and the appellant and as such, the entire allegations appear are baseless.

It is further submitted that P.W-6 is the Dr. Priyanka Chaudhary who has deposed that no external or internal injury was found upon the body of the victim. It is submitted that the I.O has deposed that the mother of the victim has not given her statement

that her daughter was standing there and the appellant had caught hold of her and she had seen that shirt of the appellant was opened and lower dress of her daughter was also removed.

It is further submitted that D.W-2 is an independent witness and he deposed that there was Haldi Ceremony in the village and mother of the victim attended the party and from her looks it nowhere revealed that any such occurrence took place with her or her daughter. It is submitted that the appellant had also been examined as D.W-1 and the appellant had filed several photographs, which reveal that there was a cordial relationship between the appellant and the victim girl.

It is submitted that no independent witnesses have supported the case of the prosecution. It is submitted that the victim girl has taken one mobile through appellant which was purchased by the appellant on EMI through Bajaj Finserv and when the appellant demanded his money back then, the informant has instituted the present case by making false allegations. It is submitted that the informant was on visiting terms with the appellant and used to have photographs together without any objection. However, the informant made an attempt to not to disclose about her friendship with the appellant but the annexures filed herein shows about her good terms with the appellant and her entire allegations becomes doubtful.

It is submitted that the appellant has got no criminal antecedent and the appellant is in judicial custody since 10.03.2024 and hence, the appellant may be enlarged on bail.

6. On the other hand, learned counsel for the State has opposed the prayer for bail and submitted that the impugned judgment of conviction and sentence passed by the learned Court

below is fit and proper and no interference is required.

7. It is submitted that the appellant had committed heinous offence by threatening the girl continuously and he used to tease her for the last two (02) years by using force and also threatened her of throwing acid on her face. It is submitted that the appellant had tried to establish physical relationship with the victim girl by force but could not succeed. However, by using force the appellant had taken some photographs with her and started blackmailed her due to which she was scared and she had even left her studies. It is further submitted that the victim girl during her statement recorded under Section 164 Cr.P.C has fully supported her case and has supported the allegation made in the F.I.R. It is submitted that the P.W-1 is the victim girl herself and has fully supported her case.

It is further submitted that the appellant had disrobed her on the date of occurrence and he got himself undressed and tried to establish physical relationship with her. Then, the mother of victim girl arrived and saved her. It is submitted that P.W-2 is the mother of the victim girl who has also supported the prosecution case and submitted that she had saved her daughter i.e. the victim girl from the clutches of the appellant and the lower dress of her daughter was removed and her daughter was crying. It is submitted that P.W -3, P.W-4 and P.W-5 namely Nisha Devi, Ratan Das and Mohammad Asgher are the independent witnesses and they have also supported the prosecution case against the appellant for trying to molest the victim girl. It is further submitted that P.W-7 namely Raj Kumar Mahato has also supported and corroborated the prosecution case and hence, the prayer for bail of the appellant may be rejected.

8. Perused the Lower Court Records and considered the

submission of both the sides.

9. It reveals from the F.I.R that the victim girl was living with her widow mother and who is a minor girl and for the last two (02) years the appellant Guddu Paswan used to caught hold of her forcibly and threatenend her of dire consequences whenever she used to go to college and due to which, she was so scared that she was not in a position to move outside of her house. It further reveals that the appellant used to touch the body of the victim girl forcibly and threatened her for throwing acid on her face.

10. It is also alleged in the F.I.R that on 06.03.2024 at around 4 P.M to 4:30 P.M, the appellant forcibly entered into her house and tried to establish physical relationship with her while she was alone and her mother came running from the parlour and saved here from the clutches of the appellant but the appellant had threatened her to lift her if she failed to obey his command and for putting her house on fire. Though, there is delay of three (03) days in lodging the F.I.R but in such circumstances, the daughter of a helpless widow lady had shown courage to lodge the F.I.R after the delay of three (03) days and as such, the delay of three (03) days is not fatal.

11. So far as the evidence of prosecution witnesses is concerned, it would appear that P.W-1 is the victim girl herself who stated during her evidence that the appellant was teasing her for around last three (03) years while she was going to college and had threatened her for throwing acid on her face due to which, she left her studies for some period. However, the appellant on 06.03.2024 had entered into her house and removed her entire clothes including her inner garments and removed his cloth also and had pounced on her body due to which, she started raising

alarm. Then, her mother came and got the appellant removed from the body of her daughter but the appellant had threatened her of dire consequences to the extent that he will not allow her to marry someone else and putting their house on fire. Thereafter, her statement was recorded under Section 164 Cr.P.C before the Magistrate which was also marked as Exhibit-P-2. The date of birth of the victim girl is 15.07.2006.

12. During cross-examination, she stated that she is a student of Class-12th and presently, she is working in Shankar Mall for the last 2/3 months. She stated that the parlour of her mother is adjoining to her house. She claimed to have stated before the police that the appellant Guddu Paswan came to her house and removed her clothes. She denied the suggestion that the appellant Guddu Paswan had given amount to her mother and for which, he was implicated, however, the defence have not put any question before the victim girl that the appellant had given mobile to the victim girl and for which, he had demanded money.

Thus, the allegation of the appellant against the victim girl is not correct.

13. P.W-2 is the mother of the victim girl and she also stated during her evidence that on hearing alarm of her daughter, she went into her house and saw that lower garments of her daughter was opened and the shirt of the appellant Guddu Paswan was also opened. Then, she removed him and the appellant had fled away by giving them threatening and she had instituted this case on 9th day of the month due to fear.

During cross-examination, she asserted that lower garments of his daughter was opened.

14. Even P.W-3 stated that on hearing alarm of the victim girl,

she had seen the appellant inside her house and she had also saved the victim girl from the clutches of the appellant and during cross-examination, she claimed to be the eye witness of the occurrence.

15. P.W-5 is Mohammad Asgher who has also supported and corroborated the prosecution case and he had also stated that he had advised the mother of the victim girl for instituting the case against the appellant Guddu Paswan who used to tease her daughter on the way while she was going to her college. Even on the date of occurrence, he had gone to the residence of the victim girl and had seen her in weeping condition.

16. P.W-7 is the I.O in this case who has also supported and corroborated the prosecution case.

17. From persual of the statement of the victim girl recorded under Section 164 Cr.P.C, it would appear that she has fully supported her case.

18. So far as the defence witnesses is concerned, it would appear that D.W-1 is the appellant Sumit Kumar Paswan @ Guddu Paswan himself and stated that he had given Rs. 1.50 Lakh cash to the mother of the victim girl for doing some work in Beauty Parlour and the said amount was not returned. He denied to have taken the photographs of the victim girl on his mobile forcibly.

During cross-examination, he claimed to have given the said amount of Rs. 1.50 lakh to the mother of the victim girl by cash on 10th September 2023 but he had shown ignorance for not writing this fact in his bail application.

Therefore, the allegation of giving Rs. 1.50 lakh in cash to the mother of victim girl is a mere wild allegation.

19. D.W-2 is Rahul Thakur who claimed that the victim girl and his mother had assembled in his house on the occasion of

Haldi rituals on 07.03.2024 and the mother of the victim girl had not stated anything about the occurrence and she has not raised any alarm on 06.03.2024 and both the victim girl and her mother had appeared.

During cross-examination, he had shown ignorance about the acquaintance between the appellant and the victim girl.

Thus, the evidence of D.W-1 and D.W-2 are contradictory to each other. Otherwise, D.W-2 also could have stated about giving of Rs. 1.50 lakh by the appellant to the mother of the victim girl, if the appellant was so closed with D.W-2.

20. It appears that due to threatening given by the appellant and teasing of the victim girl by the appellant, the victim girl was so scared that she even left attending her college and she is residing with her widow mother who is running parlour to meet their day to day expenses and the person like the appellant has become an obstacle in the study of the victim girl (i.e. P.W-1).

21. In view of the discussion made above, this Court is not inclined to enlarge the appellant on bail.

22. Accordingly, the prayer for bail of the appellant Sumit Kumar Paswan @ Sumit Paswan @ Guddu Paswan is, hereby, rejected at this stage.

23. Thus, I.A No. 4798 of 2025 is, hereby, rejected.

(Sanjay Prasad, J.)

Avinash/