

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (DB) No.180 of 2025

Arising Out of PS. Case No.-38 Year-2022 Thana- AMNAUR District- Saran

Manoj Kumar Son of Singhasan Mahto @ Singasan Mahato Village
-Manorpur P.S. -Amnour (Amnaur) District -Saran
... .. Appellant

Versus

1.

The State of Bihar
2.

Village -Manorpur P.S. -Amnour District -Saran
- Respondents

Appearance :
For the Appellant : Mr. Shivendra Kumar Sinha, Advocate
Mr. Ankit Kumar Singh, Advocate
Mr. Divit Vinod, Advocate
Mr. Ranjeet Patel, Advocate
For the State : Mr. Dilip Kumar Sinha, APP
For the Informant : Mr. Yashraj Bardhan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

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30-10-2025

Heard learned counsel for the appellant, learned
counsel for the informant and learned APP for the State.

2. Records of this case have been placed before this Court to consider the prayer of the sole appellant for suspension of his sentence and release on bail during pendency of the appeal. He is in custody for three years seven months by now.

3. The appellant has been convicted vide judgment dated 17.12.2024 and sentenced vide order dated 23.12.2024 in connection with POCSO Case No. 16 of 2022 arising out of Amnaur P.S. Case No. 38 of 2022 by the learned Exclusive



Special Judge (POCSO Act), Chapra for the offence under Sections 366A, 376 of the Indian Penal Code (in short 'IPC') and Section 4 of the Protection of Children from Sexual Offences (in short 'POCSO') Act. He has been ordered to undergo rigorous imprisonment for life and to pay a fine of Rs. 25,000/- under Section 376 of the IPC and in default of payment of fine, he shall further undergo simple imprisonment for six months. For the sake of brevity, the sentences awarded under other Sections are not mentioned.

4. The prosecution case is based on a written information furnished by the mother of the victim girl on 12.02.2022. In her written information, she alleged that her married daughter aged about 20 years had been allured and taken away by the appellant on 30.01.2022 with intention to marry her. From her own written statement, it is evident that she was aware of the occurrence right from inception but she claims that the case was lodged after about 14 days because she was busy in search of her daughter.

5. Learned counsel for the appellant submits that there is not only a delay of 14 days in submission of the written information, the facts mentioned therein would reveal that the daughter of the informant was aged about 20 years and she was



already married. The victim girl returned on her own whereafter her statement under Section 164 of the Cr.P.C. was recorded on 18.02.2022 (Exhibit-P/1). In her Section 164 Cr.P.C. statement, she had categorically stated that she had left her house on her own will and volition on 22.01.2022 and reached Chapra Junction from where she went Delhi and after reaching Delhi, she contacted the appellant who took her to his house. She had claimed that she stayed with him in his house till 15.02.2022. In her Section 164 Cr.P.C. statement, she has not even whispered about committing any wrong act with her, rather she had stated that when the appellant came to know about the lodging of the case, then he left her in the house of her *bua* from where her mother came to take her to Amnaur. It is submitted that at the earliest opportunity, the victim girl did not allege anything against the appellant but during trial, she changed the prosecution story perhaps under tutoring because she remained in the company of her family. Even during trial, she has stated in paragraph '18' of her deposition that it is correct that after reaching Anand Vihar Junction, she had made telephone call to the appellant to come and take her to his house.

6. Learned counsel for the appellant submits that in such circumstances, the victim would not fall in the category of



sterling witness. In course of trial, her school certificate was produced from which it appeared that her date of birth mentioned in the school certificate was 18.05.2004, therefore, she was 17 years 8 months approximately at the time of occurrence as per school certificate, it is for this reason that the case was charged also under POCSO Act but the fact remains that her mother claimed that the victim was 20 years old and she was married. The medical examination revealed that she was major above 18 years of age.

7. On the other hand, learned counsel for the informant submits that the victim was less than 18 years of age as per school certificate, therefore, the case was rightly charged under the POCSO Act. It is submitted that the victim seems to have not made the statement under Section 164 of the Cr.P.C. out of her own free will and volition and perhaps under some influence she did not make the complete statements against the accused at that stage.

8. Having regard to the entire facts and circumstances and the materials which we have *prima-facie* gone through, considering that despite knowledge of occurrence written information has been given after 14 days, the victim claimed to have left her house on 22.01.2022 itself whereas informant



claims that she was allured and taken away on 30.01.2022, the victim girl is said to be married aged about 20 years by her mother in her written information and in her own statement under Section 164 of the Cr.P.C as well as in her deposition, in course of trial she had admitted and had stated that she had left her house on her own will and volition and had gone to Delhi and from Delhi she had called the appellant to come and take her to his house, in her first statement under Section 164 of the Cr.P.C. she did not make any allegation of wrong act against the appellant and thereafter, she had remained under influence of her mother and family members whereafter she had deposed in course of trial with material deviations, the appellant had already remained in incarceration for three years and seven months and this appeal is of the year 2025, which is not likely to be taken up in near future, the appellant deserves privilege of suspension of sentence and release on bail during pendency of the appeal.

9. Let the sentence of the appellant be suspended and he be released on bail during pendency of the appeal on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge (POCSO Act)



Chapra in connection with POCSO Case No. 16 of 2022 arising out of Amnaur P.S. Case No. 38 of 2022.

10. The fine, if any, imposed as part of sentence shall remain suspended during pendency of the appeal.

11. It is made clear that the observations made hereinabove are only prima-facie and tentative for the purpose of suspension of sentence and bail only which would not cause prejudice to the either parties.

12. List this appeal for hearing on its turn.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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