

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3952 of 2025

Arising Out of PS. Case No.-354 Year-2020 Thana- GHORASAHAN District- East
Champaran

Sheikh Saidullah @ Md. Shaidullah son of Sheikh Islam Village- Nagarwa
Tola Bagaha PS -Ghorasahn District -East Champaran

... .. Appellant/s

Versus

1. The State of Bihar
2. Sajda Khatoon Daughter of Ejajul Dewan Village- Nagarwa Tola Bagaha PS
-Ghorasahan District -East Champaran

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Ramchandra Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 12-05-2026

I. A. No. 01 OF 2026

1. Heard learned Counsel for the appellant and learned
Additional Public Prosecutor for the State.
2. I. A. No. 01 of 2026 has been filed for suspension of
sentence and grant of bail to the appellant during the
pendency of this appeal.
3. The present appeal has been preferred by the appellant
against the judgment of conviction, dated 30.07.2025, and
order of sentence, dated 19.08.2025, passed by learned
Exclusive Special Judge, POCSO, East Champaran, at
Motihari, in POCSO Trial No. 144 of 2020, arising out of
Ghorasahan Police Station Case No. 354 of 2020,
whereby the appellant has been convicted for the charges



under Section 376 (1) of the Indian Penal Code and Section 4 (1) of the Prevention of Children from Sexual Offences Act, 2012.

4. By the impugned judgment, the appellant has been sentenced, under Section 4 (1) of the Prevention of Children from Sexual Offences Act, 2012, to undergo rigorous imprisonment for ten years, and a fine of Rs. 20,000/-, and in default of payment of fine, the appellant has further to undergo simple imprisonment for fifteen days. No separate sentence has been awarded under Section 376 (1) of the Indian Penal Code.
5. The prosecution case, as per the First Information Report registered on the basis of the fardbayan of the victim on 05.09.2020, is that before Holi in month of February, when the informant had gone out of her house to bring grass for her goat, her villager (the appellant), after finding her alone, called her, but she ignored the call of the appellant and proceeded towards the pond for bringing grass. After some time, at about 10 to 110 AM, the appellant came and asked her as to why she did not come on his call. Upon finding her alone, the appellant dragged her in the mustard field of one Samshad Mian



and tied her mouth with stole and committed rape upon her. It is the further case of the informant and the informant was so frightened and she did not disclose this occurrence to anyone. When the informant was suffering from abdominal pain, she disclose this fact to her mother, who then, took her to the doctor and after medical examination, it was found that the informant was pregnant for five to six months.

6. Learned Counsel for the appellant submits that there are inconsistencies in the statement of the victim girl in the First Information Report, her statement recorded under Section 161/164 of the Code of Criminal Procedure, 1973 and her deposition before the learned Trial Court. The appellant is the neighbour of the informant. He further submits that at the time when the informant disclose the occurrence of rape upon her by the appellant, she was carrying a pregnancy of about 5-6 months and it is quite impossible that a child, allegedly 14 years old, will carry a pregnancy of about 5 months and her body appearance will not struck the minds of the family members of the victim. The victim has also alleged assault, but the doctor has not found any injury of assault upon the informant.



He further submits that the mother and father of the victim, in their depositions, have stated that had the appellant married the victim and adopted the child, this case may not have been filed. He further submits that the DNA test of the appellant and the son of the victim was conducted and in the DNA report, it has been opined that the appellant is not the biological father of the son of the victim. He further submits that the appellant is in custody since 06.09.2020, i.e. about 5 years and 8 months and the appeal is not likely to be taken up for final hearing in near future.

7. On the other hand, learned Additional Public Prosecutor has vehemently opposes the prayer for bail and submits that there is no inconsistency in the statement of the victim girl in the First Information Report, her statement recorded under Section 164 of the Code of Criminal Procedure, 1973 and her deposition before the learned Trial Court; rather the victim has narrated the entire occurrence in detail in her deposition. He further submits that it is the consistent case of the prosecution, corroborated by PW 2 and PW 3, that the victim was raped by the appellant.



8. Having heard learned Counsel for the parties, taking into consideration the evidence adduced during the trial and the fact that from the DNA report, it would be evident that the appellant is not the biological father of the son of the victim and the appellant has remained in custody for about 5 years and 8 months and there is no likelihood of the appeal being finally heard in near future, I am inclined to suspend the sentence and release the appellant on bail during the pendency of this appeal.
9. Accordingly, the execution of sentence, during the pendency of this appeal, shall remain suspended.
10. Let the appellant, above named, be released on bail, pending appeal, on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Exclusive Special Judge, POCSO, East Champaran, at Motihari, in POCSO Trial No. 144 of 2020, arising out of Ghorasahan Police Station Case No. 354 of 2020.
11. I. A. No. 01 of 2026 stands allowed.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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