

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL APPEAL (SJ) No.391 of 2023**

Arising Out of PS. Case No.-158 Year-2013 Thana- GURUA District- Gaya

Upendra Paswan @ Ashok Kumar, Son of Kailash Paswan, Resident of  
Village- Bazidpur, P.S.- Gurua, District- Gaya

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr. Om Prakash Srivastav, Adv.  
For the Respondent/s : Mr. Mukeshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH  
ORAL ORDER**

- 4      05-12-2023                      1. Heard learned counsel for the Appellant and learned APP for the State.
2. This appeal has been preferred against the Judgment of Conviction dated 29.11.2022 and Order of Sentence dated 30.11.2022 passed by the Court of learned Exclusive Special Judge, POCSO-cum-Additional Sessions Judge-VII, Gaya, in connection with POCSO Case No. 03 of 2014 arising out of Gurua P.S. Case No. 158 of 2013, whereby and whereunder the appellant has been convicted for the offence(s) punishable under Section(s) 354(B) of the Indian Penal Code and Section 8 of the POCSO Act and sentenced for the said offence(s).
3. Learned counsel for the appellant presses the prayer for bail made by the appellant under Section 389(1) of



Cr.P.C.

4. The main submissions advanced by learned counsel for the appellant are that the appellant has spent fifteen months in jail against the maximum sentence of four years of rigorous imprisonment awarded upon him for the offences punishable under Section 354(B) of IPC and Section 8 of the POCSO Act and the so-called victim is a relative of the appellant and she made contradictory statement regarding the commission of the alleged offence and the informant lodged the FIR after delay of two days in spite of the alleged offence coming in her knowledge and the said delay was not explained by the prosecution.

5. Learned APP appearing for the State has opposed the prayer for bail of the appellant.

6. Considering the nature of allegation as well as taking into account the victim's statement and evidence recorded under Section 164 of Cr.P.C. before the Judicial Magistrate and trial court, this Court is not inclined to accept the prayer for bail made by the appellant. Accordingly, his prayer stands rejected.

7. The appellant may renew his bail prayer after six months if his appeal is not taken up for hearing within the said



period.

8. List this appeal under appropriate heading in due course.

**(Shailendra Singh, J)**

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