

CNR : MHCH040001862020

ORDER BELOW EXH.03

(Passed on 12.06.2020)

The applicant who is accused, aged 26 years, is seeking a bail as he has been arrested in Crime No.119/2020, in offence punishable u/ss. 376(2)(i)(j) of I.P.C. r/w Sec. 4 and 6 of POCSO Act, 2012. He is behind the bar since three months and now seeking a bail by showing his willingness to abide all conditions.

The case of prosecution, in brief, is that victim is 8 years 7 months old. She is a neighbour of accused. On 16.3.2020 in noon time, she had been outside the village to answer nature call (latrine), that time the accused Tulshiram came near her and brought in cattle shed. He asked her to remove nicker, he also opened his zip and touched his penis to her private part. Anyhow she succeeded to run away from the spot. She narrated the incident to her mother who rushed to Police Station, Shegaon and lodged the report. Police Swung into action, registered the aforesaid offence and also arrested the accused. The victim as well as the accused were referred for medical check up. After completion of investigation, chargesheet is filed.

He averred that due to the old enmity, he has been involved in false case by putting a small girl as a victim. He categorically averred that his old aged parents are suffering from deceased and he also under mental depression. He is having no criminal record. Medical as well as C.A. report are not supporting

the case of prosecution. On the other hand, the prosecution put up reply and strongly opposed the bail.

2. I heard both the sides at length. Perused chargesheet, particularly the statement of the victim and her medical certificate. The medical certificate of victim does not show even redness on her private part; moreover it does not reflect the penetration. At this stage, it would not be proper to discuss the case of prosecution as well as defence on merit. If we taken into consideration the statement of victim as it is, the so-called act of the accused may fall u/s 7 i.e. sexual assault and punishment is provided in Section 8 i.e. not less than three years but which may extent to five years with a fine. There is no scope for early disposal of trial as number of matters are already in queue. No criminal antecedents against the accused except the present crime.

It is pertinent to note here that due to COVID-19 nationwide lockdown is going on from 23.3.2020 and as per the directions cum guidelines of Hon'ble superior Courts, the crowd of accused in jail required to be reduced. The prosecution put up a possibility about tampering of evidence if the accused is released on bail. In my view, if the accused is prohibited from entering into the village Gujgavhan, it would suffice the purpose. The investigation is over, chargesheet is also filed. No scope to tamper the evidence if accused is not allowed to enter into the village of victim till further order; hence following order :-

ORDER

1. The applicant/accused by name Ramkrushna @ Tulshiram Bijaram Jivtode, aged 26 years, be released on executing P.R. bond of Rs.15,000/- with one solvent surety in like amount, in Crime No.119/2020, in offence punishable u/ss. 376(2)(i) (j) of I.P.C. r/w Sec. 4 and 6 of POCSO Act, 2012, registered in P.S. Shegaon on following terms and conditions :-

1. He should not enter into his home as well as village Gujgavhan till the evidence of prosecution witnesses are over.
 2. He should attend the P.S. Shegaon fortnightly on Sunday in between 1.00 p.m. to 5.00 p.m. and to maintain personal diary in that respect.
 3. He should not meet and pressurize the victim as well as the prosecution witnesses by any mode.
2. Application at Exh.03 is hereby disposed off accordingly.

Warora
Date : 12.06.2020

(D.K. Bhende)
Judge
Special Court, Warora.