

MHGA010002962024



IN THE COURT OF SESSIONS AT GADCHIROLI

(Presided over by Shri Prashant R. Sitre)

Spl (POCSO) Case No. 16/2024

State-Vs-Gaurav Sitaram Thakur + 1

1. Gaurav S/o. Sitaram Thakur,
Aged 21 years, Occ- Labour,

2. Totaji Ravindra Bhagat,
Aged 23 years, Occ- Labour,
Both R/o. Ghargaon,
Tah. Chamorshi, Dist. Gadchiroli.

.. **Applicants**

..Versus..

State of Maharashtra
Through PSO, P.S. Chamorshi,
Tah. Chamorshi, Dist. Gadchiroli.

.. **Non-applicant**

Adv. Shri N.U. Lodalliwar for the applicant
PP. Shri A.S. Pradhan for the State

ORDER below Exh.04

(Passed on 06.11.2024)

This is an application filed by applicants seeking their release on regular bail in Crime bearing No.41/2024 for the offence punishable u/Sec. 363, 376(1), 376(2)(j), 376(3), 376 D, 376(D)(a), 341, 323 read with Section 34 of the Indian Penal Code, 1860 registered with Police Station, Chamorshi,

Tah. Chamorshi, Dist. Gadchiroli.

2. According to the prosecution, victim was studying in 9th standard at mouza Bhendala, Tah. Chamorshi, Dist. Gadchiroli. She knows the accused persons. Her relations with accused no.2 is friendly. On 19.02.2024 at mouza Dhargaon there was Shivjayanti programme and after rally there was a programme of dinner arranged at Sabhagruh. The victim had taken dinner at that place and at about 8.00 p.m. near Vitthal Mandir accused no.1 obstructed her and forcibly taken her in his house. The victim refused it and told that she want to go in her house. Thereafter accused no.1 slapped her, closed the door from inside and accused no.2 caught hands of victim and accused no.1 committed sexual intercourse with her forcibly. Thereafter accused no.2 also committed sexual intercourse with the victim forcibly. Thereafter victim came to her house and narrated the incident to her parents.

3. Learned advocate appearing on behalf of the applicants submitted that the accused are innocent and falsely implicated in this crime. The accused persons have not committed any crime. At the time of the alleged offence the victim is above 18 years. The cousin sister of the victim was going to marry with the cousin brother of accused no.2. Both the families are opposing the said marriage and hence this false case is registered against the applicants with an intention to take revenge.

4. The learned advocate further submitted that all the allegations leveled against them are false one. The applicant no.1 is having love relation with the victim. The applicants have not committed any crime. Applicants are not the habitual offenders.

5. The learned advocate further submitted that investigation is completed and charge-sheet is filed. The statement of the victim is already recorded. Nothing remained left for any recovery or discovery. The accused are arrested on 20.02.2024 and since then they are in jail. No purpose would be served to keep the applicants behind the bar.

6. The learned advocate further submitted that applicants are the young boys. Their future may be spoiled, if they are not released on bail. The applicants are the resident of above mentioned address. They will not abscond. The applicants are ready to abide each and every condition imposed by this Hon'ble Court and hence prayed to release them on bail.

7. The learned APP by filing the say at Exh.5 strongly opposed the application on the ground that applicants are directly involved in this offence. The victim is the minor girl at the time of incident. Taking the advantage of her tinier age the accused persons have committed the said act. The act of the accused are forcible in nature. The medical documents supported the theory of victim. Both the accused persons forcibly committed the said act.

8. The learned APP further submitted that the intention and motive of both the accused are seen from their activities. The charge-sheet is filed. The statement of the victim clearly reflected that accused persons are involved in this offence. FIR clearly shows their names. There are chances that applicants may have given threat to the victim or the prosecution witnesses. Considering the role of applicants, he prayed to reject the application.

9. The victim filed her say vide Exh.6 and strongly opposed the application on the ground that both the applicants forcibly committed the said act. She has also given her statement before the competent court. If the accused persons are released on bail, then they may have given threat to her or may do any illegal act with her family members and hence requested to reject the application.

10. Heard both the side at length and also perused the say filed by victim.

11. On the perusal of charge-sheet, it appears that both the applicants forcibly sexually assaulted the victim one by one. It appears that the act of the applicants are forcible in nature. At the time of said incident victim is the minor girl. Both the accused persons forcibly took the victim to his house and committed the said act.

12. On perusal of statement of victim prima facie it seems that applicants are directly involved in this offence. Filing of charge-sheet does not mean that the gravity of the offence is

..5.. Spl POCSO Case No.16/2024

Order Below Exh.4

decreased. The statement of the witnesses corroborated with the version of victim. Prima facie it seems that accused have committed the said act. Considering the gravity, sensitivity and the way of committing the offence, I pass the following order.

ORDER

Criminal Bail Application (Exh.4) is rejected.

Date : 06.11.2024

(**Prashant R. Sitre**)
Additional Sessions Judge,
Gadchiroli