



IN THE COURT OF SESSIONS JUDGE, GADCHIROLI

(Presided over by Shri V. R. Joshi)

Spl. POCSO Case No.16/2024

Exhibit No.13 & 14

State of Maharashtra (Police Station Chamorshi)

vs.

Accused : Gaurav Sitaram Thakur + 1

Applicant/Accused no.1 : Gaurav Sitaram Thakur (Exh.13)

Applicant/Accused no.2 : Totaji Ravindra Bhagat (Exh.14)

Common O R D E R (Below Exh.13 & 14)

(Passed on : 31st October 2025)

In this trial, both the applicants (accused nos.1 and 2) are prosecuted in relation to Crime No.41/2024 registered with Police Station, Chamorshi, District : Gadchiroli for the offences punishable under Sections 363, 376(1), 376(2)(i), 376(3), 376D, 376DA, 341, 323 read with Section 34 of the Indian Penal Code and Sections 4, 6 & 8 of the Protection of Children from Sexual Offences Act.

2] Applicants accused no.1 Gaurav and accused no.2 Totaji filed applications Exh.13 and Exh.14 respectively, for grant of regular bail under Section 439 of the Code of Criminal Procedure/Section 483 of the Bharatiya Nagarik Suraksha Sanhita. The applicants/accused are arrested on 20.2.2024. Since then they are behind the bars. Charge-sheet is filed on 18.4.2024. Their previous bail application (Exh.4) was

rejected by the Special Court/Additional Sessions Judge, Gadchiroli by order dated 6.11.2024 on merits. It is submitted during the hearing of this application that one of the applicants i.e. accused no.2 Totaji had submitted bail application being No. Criminal Application (BA) No.1190/2024 before the Honourable High Court, Nagpur Bench, Nagpur and it was withdrawn as the Honourable High Court was not inclined to entertain the application.

3] These fresh applications (Exh.13 and Exh.14) are now filed by accused no.1 Gaurav and accused no.2 Totaji respectively for the reasons that about one year has passed away since rejection of the application. In the meantime, Chemical Analysis Reports are filed which do not support the prosecution and few aspects were not highlighted during the hearing of the earlier bail application.

4] The prosecution case, in brief, is as under :-

A victim minor girl studying in 9th Standard attended “*Shivjayanti*” programme arranged in her village on 19.2.2024. After the programme, there was dinner in a hall. After the dinner, she left that hall and at about 8.00 p.m., applicant/accused no.1 Gaurav met her, she knew him, he forcibly took her inside his house, she opposed and told him that she wanted to go to her house. The accused no.1 Gaurav slapped her, closed the door of the house from inside. After sometime, accused no.2 Totaji arrived, accused no.1 opened the door, took accused no.2 in the house. Thereafter, both of them, one after another committed forcible sexual intercourse with the victim. The victim came to her house and narrated the incident to her parents. On the next day, complaint was lodged with the police.

5] Submissions made by Shri R. P. Rangari, the learned Advocate for both the applicants/accused are that the allegation of forcible sexual intercourse is false. This Court’s attention is invited

towards medical examination report of the victim to point-out that at the time of alleged forcible sexual intercourse, the victim was menstruating. It is submitted that no blood stains were found on the cot where she was allegedly raped, no semen is detected on any swab or clothes of the victim. The semen stain found on the underwear of the accused no.2 Totaji matches his own blood group.

6] It is further submitted that due to “*Shivjayanti*” programme, there was presence of large number of people and it is impossible that the accused no.1 could have forcibly taken the victim to his house. The victim was in affair with accused no.1, accused no.2 saw her accompanying with accused no.1. False allegations are made against accused no.2 Totaji because he is related to the victim and she apprehended that he might tell her parents that she was seen with accused no.1 Gaurav. He urged to grant bail to both the applicants/accused.

7] On the other hand, Shri N. M. Bhandekar, Additional Public Prosecutor submitted that narration in the F.I.R. is truthful. There is no reason for the victim to falsely implicate the applicants (accused no.1 and accused no.2). At the time of the incident, it was night time and there were no eye-witnesses near the house of the accused no.1, nobody was inside the house also, the accused no.1 slapped the victim, a minor 15 years old victim could not resist the two accused. Therefore, he opposed granting of bail, he also submitted that there is no change in the circumstances since rejection of the last bail application (Exh.4).

8] Having considered the charge-sheet and submissions of the learned Advocate for the applicants, this Court is of the view that the material on record shows that the victim’s version at the time of lodging the F.I.R., thereafter at the time of her medical examination and before

the learned Judicial Magistrate in the statement recorded under Section 164 of the Code of Criminal Procedure are consistent about the actual occurrence of the incident. She narrated the incident immediately to her parents, her mother tried to contact both the accused/applicants telephonically, they also contacted the village Police Patil who intimated the police, which shows strong *prima facie* case against both the applicants/accused that they have committed grave offence against the minor victim. It does appear from her medical examination report that probably the victim was menstruating when the act was committed with her, however, at this stage this Court is not required to evaluate the material on record like a mini-trial.

9] As there is no change in the circumstances, this Court is not inclined to take any other view deviating from the earlier order rejecting the bail application. Hence, the following order :-

ORDER

Applications for bail (Exh.13 and Exh.14) are rejected.

Place : Gadchiroli
31st October, 2025

(V. R. Joshi)
Sessions Judge, Gadchiroli