

IN THE COURT OF DISTRICT JUDGE-1 & ASJ, GONDIA.**SPECIAL CASE NO. 05/2020**
(CNR: MHGO01000120-2020)**State Of Mah. -Vs- Rakesh Devaikar+3****COMMON ORDER BELOW EXHS. 10 & 12.**
(Passed on this 3rd day of November, 2020)

Application at Exh. 10 is moved by the applicant/accused No. 4 Amol s/o Pandurang Narnaware and application at Exh. 12 is moved by the applicant/accused No. 5 Bandu s/o Sanjay Lakade under section 439 of Cr.P.C. in crime No. 263/2019 for the offence punishable under sections 376(d) and 307 read with section 34 of the Indian Penal Code and sections 4 and 6 of the POCSO Act, registered with Duggipar Police Station.

2. The prosecution case in brief is that on 03.11.2019 a child victim girl, aged about 10 years had gone to see Drama in her village at 9:00 p.m. Accused Rakesh Dewaikar saw the child victim and gave her Rs. 10/- and brought her near a lake. There were four other accused persons. While accused Rakesh Dewaikar committed rape on the child victim near the field of sugarcane, accused Prajwal Kharkate and Harish @ Chetan Narnaware caught-hold the hands of the child victim. Accused No.5 Bandu Lakade (applicant) and accused No. 4 Amol Narnaware (applicant) were keeping watch so that no one should come to the spot of incident. After the accused

raped child victim, all five accused attempted to kill child victim by drowning her 2-3 times. When all the accused felt that the child victim was dead, they ran away from the spot. Thereafter, child victim regained her conscious and told about the incident to her parents and crime came to be registered.

3. It is contended by the applicant/accused No. 4 that the investigation is completed and he has been charge-sheeted on suspicion. The applicant/accused had come to the village only for work of decoration. Hence, application be allowed.

4. The IO opposed the application by filing say at Exh. 13 on the ground of seriousness of the offence.

5. It is contended by the applicant/accused No. 5 that he has no concern with the crime. He is the only earning member of his family. Hence, application be allowed.

6. Both the applications are opposed by the learned APP considering the age of the child victim and the heinousness of the crime.

7. Heard learned advocate for the applicant/accused No. 4 and applicant/accused No. 5. The learned advocate for the applicant/accused No. 4 submitted that the victim did not identify the accused No. 4 Amol and the T.I. parade was conducted after two months. Hence, it is doubtful.

8. Learned advocate for the applicant/accused No. 5 submitted that the victim and witnesses did not identify accused No. 5. Hence, application be allowed.

9. Learned A.P.P. opposed the applications on the ground that there is ample evidence and their earlier applications were rejected by this court.

10. Perused the charge-sheet.

11. From the material on record, it is prima-facie evident that accused No. 4 Amol was taking care that no one should come to the spot of incident. The test identification parade report shows that child victim and other witnesses had identified accused No. 4 Amol. Though the child victim did not identify accused No. 5 Bandu, but one witness had identified accused No. 5 Bandu. Hence, there is ample evidence against both the applicants/accused No. 4 and 5. Hence, grant of bail to the applicants/accused No 4 and 5 cannot be justified. Hence, I proceed to pass the following order.:-

ORDER.

1) The applications (Exhs. 10 and 12) are hereby rejected.

Gondia.
Dated:- 03.11.2020.

(S. B. Parate)
District Judge-1 & ASJ, **Gondia.**