

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
(POCSO), GONDIA.

Special C. No. 05/2020
(CNR No. MHGO010001202020)
State Vs. Rakesh & Ors.

ORDER PASSED BELOW APPLICATION (EXH-15)

This application which is titled as application for release of accused on temporary bail has been filed by accused No.4 Amol s/o Pandurang Narnaware and accused No.3 Harish @ Chetan s/o Devidas Narnaware who are facing trial before this court and are charge-sheeted for the offence punishable u/sec. 376(D), 307, r/w sec. 34 of Indian Penal Code and sections 4 & 6 of Protection of Children From Sexual Offences Act, 2012.

2. The prosecution case precisely is that on 3/11/2019 a child victim girl aged about 10 years had gone to see a Drama in her village at 9.00 p.m., accused No.1 Rakesh saw the victim and brought her near a lake showing her allurements of giving Rs. 10/- where other co-accused were present. It is alleged that when accused No.1 Rakesh committed rape upon the child, accused Prajwal and present applicant accused No.3 Harish @ Chetan Narnaware caught hold of the hands of the victim and co-accused Bandu s/o

Sanjay Lakde and present applicant No.4 kept watch so that no one is come to the spot of incident. Further allegations is that, after accused Rakesh raped the child victim, all five accused attempted to kill the victim by drowning her in the lake and under impression that the child was dead they ran away from the spot. When the victim regained consciousness she went home and narrated the incident to her parents and on their report Crime No. 263/2019 was registered by Police Station, Duggipar.

3. The prosecution was called upon to submit its say. The Special P.P. Pardhi vehemently opposed the grant of bail on the ground that the offence is serious.

4. Heard Ld. Advocate S.K. Gadpayale for applicants accused and Ld. Special P.P. Pardhi for the State. Ld. Advocate for applicants argued following points;

- (1) The incident occurred on 3/11/2019 but it was reported on 4/11/2019.
- (2) Accused are in Jail since the date of arrest i.e. 15/11/2019 and period of more than one year lapsed after their arrest.
- (3) As charge-sheet is filed the custody of accused is no longer required for investigation.

- (4) Accused are permanent resident of Waghada, district Gadchiroli, doing decoration work and they are falsely implicated.
- (5) Family of applicants accused is depended upon them and due to Covid Virus situation the condition of their wives and mothers is very serious.

5. Ld. Special P.P. opposed this argument and pointed out that before this application accused Amol had filed two applications for bail. One before filing of charge-sheet and the second one was after filing of charge-sheet and both these applications were rejected. Secondly, it was argued that the offence is u/sec. 376(D) of I.P.C. alongwith POCSO Act and the victim girl was a child aged 10 years and this aggravates the serious nature of the offence. It was submitted that there is prima facie material, showing involvement of present applicants in the offence and therefore it is not in the interest of justice to enlarge applicants on bail.

6. Perused the charge-sheet, at the out set it must be stated that previously accused Amol had filed bail application and the second bail application was rejected on merit by my Predecessor. Accused could not show any new circumstances entitling him for grant of bail. Therefore, this application cannot be

allowed. If the charge-sheet is perused and the statement of the child and report are gone through the role played by these accused persons in the offence can be seen. It shows that accused Amol was taking care that no one should come to the spot of incident and accused Chetan had caught hold of hands of child victim who was defenseless. The report of the identification parade also reveals that, the child victim and other witnesses had identified accused Harish and Amol. Therefore, there is prima facie evidence to show involvement of the accused in the alleged offence. The offence is very serious and committed in gruesome manner. Under this circumstances, if accused persons are released on bail there is very likelihood that they will tamper with prosecution evidence and will abscond. Therefore I am not inclined to release applicants on bail.

7. I have considered the argument of Ld. Advocate for defence that, due to Covid situation the condition of the families of accused is very bad as they have no source of income. I may states that this may be a ground to grant bail in case of minor offences. However this is a case of gang rape and an innocent child by four adult persons. Therefore, the said ground cannot be taken into consideration for releasing accused on bail. Both parties are therefore

directed to co-operate and to see that the trial is disposed of expeditiously without delay.

Hence, I proceed to pass following order.

ORDER

1. The application for bail stands rejected.

Gondia.
Dt. 04/12/2020.

(S.D.Tulankar)
Addl. Sessions Judge (POCSO),
Gondia.