

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE**

**(POCSO), GONDIA.**

**Special C. No. 05/2020**

**(CNR No. MHGO010001202020)**

**State Vs. Rakesh & 3 Ors.**

**ORDER PASSED BELOW APPLICATION (EXH-10)**

This is application for bail filed by accused No.3 Amol Narnawre, who is one of the accused in Crime No.263/2019 and has been charge-sheeted 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, in brief, is that 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. Heard Ld. Advocate for applicant/accused Shri. Gadpayle Advocate and Ld. Spl. P.P. Shri. Pardhi Advocate for the State. Advocate Gadpayle submitted that earlier application for bail filed by present accused was rejected. But he contended that the trial will take much time and accused is languishing in Jail. He submitted that considering the Covid situation accused be released on temporary bail, considering the direction of High Power Committee of Hon'ble Supreme Court. It was argued that present accused is in no way connected with the offence and allegations in the report are against unknown boys. Ld. Advocate submitted that the accused was not known to the victim and victim did not identify him and therefore there is prima facie material to release accused on bail.

4. Ld. Spl. P. P. vehemently opposed this application. He submitted that earlier also present applicant filed two applications for bail and they were rejected on merits on 27/2/2020 and 3/11/2019 and there is no change of circumstances after these applications were rejected. It was submitted that while rejecting these applications the court had considered the point raised in this application and passed the detailed order rejecting bail. It was also contended that the circular regarding Covid

pandemic is not applicable to the cases under POCSO Act and therefore applicant is not entitled for bail.

5. I have considered the arguments. I have also gone through the earlier bail orders in respect of the present accused. In the first instance, it must be stated that the application shows that it is for regular bail. From the order passed earlier, it is very clear that the matter was considered and case papers were perused while rejecting earlier applications. The applications were clearly rejected on merits. The applicant could not satisfy me that after those applications were rejected, any new ground was brought on record by applicant. Therefore, the present application on the same ground is not tenable.

6. The argument of Ld. Advocate for applicant that victim was not knowing applicant and therefore, applicant is not involved in the offence also cannot be accepted. The report of identification parade reveals that the child victim and some other witnesses had identified accused Amol and therefore, there is prima facie material to suggest involvement of applicant in the alleged offence. Considering the gravity of offence and the manner in which a child of tender age was subjected to such heinous treatment by four persons, this is not a deserving case to grant bail.

7. I would like to point out that in the directions given by High Power Committee set up by Hon'ble Supreme Court in view of Covid pandemic, it is clearly stated that

under trial prisoners charged for offences for which maximum sentence is above seven years shall be considered for releasing on interim bail. Accused is admittedly charged u/sec. 376(D), 307 r/w sec. 34 of IPC. Therefore the said circular is not applicable to his case. Moreover, the circular make exception in case of certain offences to which it does not apply and in these exceptions also offences u/sec. 376(a)(2)(e) of IPC and offences under POSCO Act fall. In view of this also, the argument of Ld. Advocate for applicant/accused that temporary bail be granted during Covid pandemic is not sustainable.

8. In view of the fact that earlier applications were rejected on merits and no new circumstances are brought on record, the circular of High Power Committee does not cover offences under POCSO Act and there is prima facie material to suggest the involvement of accused in the offence, so also considering the gravity of the offence, I am not inclined to grant bail to applicant.

Hence, I proceed to pass following order.

**ORDER**

1. The application for bail (**Exh-10**) stands rejected.

**Gondia.**  
Dt. 24/02/2021.

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