

IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.**SPECIAL (POCSO) CASE NO. 05/2020.****(CNR NO.MHGO01000046-2020)****State, PSO, Duggipar -Vs- Rakesh Baburao Davaikar+3****ORDER BELOW EXH. 65.****(Passed on this 08th day of January, 2024)**

This is an application filed by applicant/accused Amol Pandurang Narnaware for grant of bail u/s 439 of Cr.PC. The applicant/accused has been arrested on 15/11/2019 by Police Station, Duggipar in Crime No. 263/2019 for alleged offence punishable under Sec. 376(d), 307 r/w Sec.34 of IPC and Sec. 4 & 6 of POCSO Act. This is fourth bail application.

2] Brief facts of the prosecution case is as under:

That, 03/11/2019 there was a programme of Mandayi at village Birri. In the said Mandayi there was a drama at about 9.30 p.m. Victim aged 10 years went towards the stage of the drama at about 8.00 a.m. As it was informed that the students on showing their I-card would get free entry. At 9.30 p.m. one Kailash Tiwaskar brought the victim home who was crying and told her that one unknown person aged about 21-22 years, gave her 10 rupee note and asked her to accompany him and tried to pull her. When she resisted he threatened to assault her. While going he made a call to

somebody and told them that he bringing the girl, he took her near the tank (Talao). While two other persons caught hold her the said person committed rape. Thereafter, all the three persons banged her head and tried to drown her in the tank.

3] Learned Advocate Shri Chauhan for the applicant submits that the earlier application Exh.33 came to be rejected on 16/07/2022. Till date charges have not been framed and the trial is not started despite lapse of more than one year. This amounts to change of circumstances. Speedy trial is a fundamental right guaranteed under Article-21 of the Constitution. Trial cannot be concluded within a short span. The applicant is the only bread earner of his family and is behind bars since more than 3 years. He is local residence. There are no criminsal antecedents. He has thus prayed for grant of bail.

4] I.O. has filed reply at Exh. 67 and opposed the application on the ground that the offence is grievous. He may threaten or influence the witnesses. He may commit similar offence. He has prayed for rejection of the application.

5] Ld. APP Shri. Agashe filed reply at Exh.68 and has opposed the application on the ground that the earlier bail application of the applicant has been rejected. Hence, this application is not tenable as there is no change of

circumstances. The charges have been framed and the case is fixed for evidence. The applicant along with other co-accused committed gang rape on the victim while the offence was being committed and tried to kill her. The offence is serious and heinous in nature. If released, he may threaten or influence the witnesses and may abscond. He has thus prayed for rejection of the application.

6] The earlier bail applications Exh.10, 19 & 33 came to be rejected on merit. The charge has been framed and the matter is fixed for evidence. Despite there being no change of circumstances, the applicant is filing one application after another, causing delay in the trial. The application is not tenable. Hence, I pass following order.

ORDER

- 1] Application [Exh.65] is hereby rejected.
- 2] Application is disposed of.

Gondia.
Dated: 08.01.2024.

Sd/-*
(Adil M. Khan)
District Judge-1 & ASJ,
Gondia.