



IN THE COURT OF DISTRICT JUDGE-1, & ASJ, GONDIA.

SPECIAL (POCSO) CASE NO. 05/2020.

(CNR NO.MHGO010001202020)

State, PSO, Duggipar -Vs- Rakesh Baburao Davaikar+3

ORDER BELOW EXH. 70.

(Passed on this 01st day of March, 2024)

This is an application filed by applicant/accused No.1 Rakesh Baburao Devaikar for grant of bail u/s 439 of Cr.PC. The applicant/accused has been arrested on 14/11/2019 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.

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

That, 03/11/2019 there was a programme of Mandai at village Birri. In the said Mandai 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 is bringing the girl. He took her near the tank (Talao). While two other persons caught hold of her, the said person committed rape. Thereafter, all the three persons banged her head and tried to drown her in the tank.

3] Learned Chief LADC Miss Shabana Ansari for the applicant submits that the applicant has been falsely implicated. No incriminating material has been brought on record to show his involvement in the said crime. The T.I. parade conducted after two months of arrest of the applicant and victim did not identify the applicant. The investigation is completed and charge-sheet is filed. The applicant is behind bar since 14/11/2019 which is more than 4 years. He is ready to abide by any condition. She has prayed for grant of bail.

4] I.O. has filed reply at Exh. 72 and opposed the application on the ground that the offence is grievous. The applicant is the main accused who gave 10 rupee note to the victim and took her to the field of sugercane and committed rape on her and thereafter he along with other co-accused tried to drwon the victim in a tank. Prima facie case is made

out. There are chances of applicant tampering the witnesses. He has prayed for rejection of the application.

5] Ld. APP Shri. Khandelwal has filed say and opposed the application on the ground that the victim is a minor aged 10 years. The applicant along with other co-accused took the victim and brought her near the bank of river where the applicant committed rape on her. Thereafter accused persons attempted to kill her and tried to drown her in the river. The T.I. parade was also conducted. He has thus prayed for rejection of the application.

6] Perused the charge-sheet. As per the charge-sheet the applicant/accused is the main accused who committed rape on the victim aged 10 years. Two witness have identified the present accused in the T.I.Parade. Bail applications of other co-accused except one have been rejected by this Court as well as the Hon'ble High Court. As per the report of I.O. that the applicant/accused was earlier also convicted in Crime No.81/2016 registered with Chamorshi Police Station, Dist. Gadchiroli for offence punishable under Sec. 354-B of IPC and Sec. 8 of POCSO Act and was sentenced for 03 years. No case for grant of bail is made out. Hence, I pass the following order.

ORDER

- 1] Application [Exh.70] is hereby rejected.
- 2] Application is disposed of.

Gondia.
Dated: 01.03.2024.

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