

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

**Special C. No. 55/2021
(CNR No. MHGO010004972021)
State Vs. Tejas Chandrikapure**

ORDER PASSED BELOW APPLICATION (EXH-10)

The Applicant who has been charge-sheeted by Police Station, Gondia City for the offences punishable under sections 363, 376(2)(i) of Indian Penal Code and section 4, r/w section 6 of Protection of Children from Sexual Offences Act, 2012 has filed this application for bail u/sec. 439 of Cr.P.C. Accused was arrested by Gondia City Police Station in Crime No. 152/2021 on 31/3/2021. Since then he is in Jail.

2. Upon receiving the application, the Ld. Spl. P.P. and Investigation Officer were called upon to submit their say. Accordingly they submitted their say (Exh-3) and objected to the grant of bail. The complainant who is victim's mother also filed her say (Exh-2) stating that applicant should not be released on bail as she apprehend danger from him to her family members.

3. The prosecution case is that on 24/3/2021 victim aged 14 years left the house stating her mother that she was going to her aunt's house in Gandhi Ward. After about an hour, complainant, her mother phone her sister, who told that victim was not at her house. In spite of search,

victim could not be found since present applicant had come to the house of complainant about one month back and thereafter complainant had seen that there was message from applicant's mobile number on her mobile which victim was using, she suspected that applicant had taken the victim. On search, she came to know that present applicant also was not at home and therefore she lodged report against accused and on the basis of which offence u/sec. 363 of IPC registered against accused. During investigation accused and victim were found at Jangampalli, Police Station Biknoor in Telangana. When victim was interrogated she stated that accused called her to meet him and took her to Telangana and forcibly committed sexual intercourse with her. Therefore, charge-sheet was filed against accused under the aforesaid sections.

4. Heard Ld. Advocate for accused, Adv. Upwanshi and Ld. Spl. P.P. for the State. It was argued by Adv. Upwanshi that victim was 14 years and 3 months old and she had voluntarily left the house and went with accused. It was submitted that statement of the victim shows that from December-2020 she knows accused and he used to frequently call her and used to tell that he loves her. Ld. Advocate submitted that inspite of this fact, the victim kept mum. It was further submitted that as per prosecution story, accused called victim on 24/3/2021 near Reliance Petrol Pump and took her to Hyderabad and during all this period victim did not raise alarm and this itself shows that

victim was a consenting party to the act of intercourse and she voluntarily went with accused. The Ld. Advocate relied upon the authority of *Anirudha Radheshyam Yadav Vs. The State of Maharashtra decided by Hon'ble Bombay High Court in Criminal Bail Application No. 2632/2019 of 9th January, 2020.*

5. As against this, Ld. Spl. P.P. submitted that the victim was admittedly minor of 14 years. It was argued that in her statement the victim has stated that accused used to repeatedly call her but she was refusing to go and meet him and this itself shows that accused deliberately developed relations with the victim knowing her to be minor. It was submitted that MLC report clearly shows that hymen was ruptured. The Ld. Spl. P.P. expressed apprehension that if accused is released, there is possibility of repetition of the offence. It was pointed out that similar allegations are made against present accused by another victim of the same age for which Spl. Cri. Case No. 54/2021 is pending before this court which shows that accused is habitual and therefore bail should not be granted.

6. I considered these arguments and also perused the charge-sheet, statements of witnesses and medical reports. Prima facie, it seems that the victim is a minor child aged 14 years. The victim has specifically stated in her statement that accused always used to call her and used to tell her that he likes her and he used to ask her to meet

him. The victim has stated that accused was knowing about her age but he used to force her to meet him. Hence, it seems that the accused induced the minor victim to come and meet him. So far as the physical relations are concerned, the victim had stated in her statement that when she went to meet accused, he made her to sit in a four wheeler and took her to Hyderabad at Jangampalli and on 23/3/2021 accused forcibly had sexual intercourse with her. This shows that accused induced the minor victim to go with him and committed forcible sexual assault. The MLC report shows that victim had penetrative vaginal intercourse. Thus, there is sufficient prima facie material suggesting involvement of the accused in the alleged offence. I have read the authority relied upon by Advocate Upwanshi. In my opinion, the said authority cannot be applied to this case as no inducement was offered by accused in that case.

7. The offence is very grave and serious. At this juncture, it must be stated that as argued by Ld. Spl. P.P. there is another Spl. Cri. Case No.54/2021 against present accused is pending before this court and in that case also, the victim is minor girl aged 14 years. Therefore, considering all these factors, considering presence of prima facie material against accused, there is every possibility that accused may commit similar types of offence with another victim or he may pressurize the present victim and tamper with prosecution evidence. The victim has also filed her say stating that she has danger from accused. In the light of

these facts, the accused is not entitled for bail. Hence, I proceed to pass the following order.

ORDER

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

Gondia.
Dt. 22/06/2021.

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