



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

SPECIAL (POCSO) CASE NO. 55/2021.

(CNR NO.MHGO01000497-2021)

State, PSO, Gondia City -Vs- Tejas Chandrikapure

ORDER BELOW EXH.16.

(Passed on this 04th day of March, 2023)

This is application filed by applicant/accused for grant of bail u/s 439 of Cr.P.C. The applicant/accused has been arrested on 31/03/2021 by Gondia City Police Station in Crime No. 152/2021 for alleged offence punishable under Sec. 363, 376(2)(i) of IPC and Sec. 4 & 6 of the POCSO Act. This is second bail application. His earlier bail application Exh.10 came to be rejected by order dated 22/06/2021.

2] Brief facts of the prosecution case is that, on 24/03/2021 victim left her house informing her mother that she is going to her aunts house. But she never went there and could not be found. The mother of the victim suspected that her daughter eloped with applicant/accused, lodged missing report. Police traced the accused and victim at Jangampalli, Telangana. As per the statement of victim she got introduced to the accused in December 2020 and exchange their mobile numbers. Accused used to call her and tell her that he loves

her. He assured of marriage, used to call her to meet him but she refused. As there was strained atmosphere in her house she became stressed and hence she agreed to accompany the accused to Hyderabad. On 24/03/2021 she went to Hyderabad and the contractor gave them one hut to reside and she along with accused resided in the said hut from 24/03/2021 to 30/03/2021. On 27/03/2021 accused developed physical relation with her. On 31/03/2021 Hyderabad police came and thereafter they were brought to police station, Gondia.

3] Learned Advocate for the applicant submits that the act is consensual and the victim has stated in statement under Sec.164 of Cr.P.C. accompanied the accused as there was stressful condition in her house. In the said statement she did not alleged that the sexual intercourse was forcefully which is alleged to have occurred once only. The medical report does not show any sign of forceful act. The accused is in custody since two years. Though charge is framed, not a single witness has been examined and conclusion of trial would take some time. Two younger sisters and widowed mother are dependent on him. He is just of 19 years of age at the time of his arrest. He has prayed for grant of bail.

4] I.O. has filed reply at Exh. 20 and has opposed the application on the ground that the offence is grievous. He may

threaten or influence the witnesses. He may abscond. He may again commit similar offence. Another offence under POCSO Act is registered against the applicant. He has prayed for rejection of the application.

5] Ld. APP Shri. Khandelwal has opposed the application on the ground that the earlier bail application Exh.10 has been rejected on merit. The applicant kidnapped the victim and took her to Hyderabad and kept her there from 24/03/2021 to 30/03/2021. The offence is serious. Victim is of 14 years 03 months. Charge have been framed. He has prayed for rejection of the application.

6] Victim has filed reply at Exh.21 and has opposed the application on the ground that the apprehending threats to her and her family members.

7] Perusal of the statement of victim under Sec. 164 of Cr.PC. reveals that she left the company of her family members and accompanied the accused due to stressful atmosphere at her parents house. It further reveals that the sexual intercourse was not forceful as stated by her. Even the medical report shows that there was no forceful act. The medical officer has opined that since the hymen was ruptured there may be an earlier episode of sexual intercourse. There are two cases registered against the accused and in the earlier case he has been enlarged on bail. The earlier bail application

came to be rejected prior to one and half year. The trial is yet to commence, though charge is framed. The accused as on now is only 21 years and his widowed mother and two minor sisters are dependent on his earnings. Conclusion of trial may take some time. Under such circumstances, under the change circumstances that trial has not commenced since long, the applicant is entitled for grant of bail. Hence, I pass the following order.

ORDER

- 1] Application [Exh.16] is allowed.
- 2] The applicant/accused **Tejas Yogesh Chandrikapure** be released on his executing PR bond of Rs.25,000/- and furnish one surety of Rs.15,000/- on the following conditions;
 - [i] The applicant shall not threaten or influence the witnesses.
 - [ii] The applicant shall not contact the victim directly or indirectly.
 - [iii] The applicant shall attend the trial regularly.
- 3] Application is disposed of.

Gondia.
Dated: 04.03.2023.

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