

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

**Special C. No. 99/2020
(CNR No. MHGO010007532020)
State Vs. Vikas Maraskolhe**

ORDER PASSED BELOW APPLICATION (EXH-2)

The applicant accused Vikas Maraskolhe has filed the instant application u/sec. 439 of Cr.P.C. for grant of bail. The accused has been arrested and charge-sheeted by Gondia Gramin Police Station for offences punishable u/sec. 376(3), 376(2) (N), 450, 506 of Indian Penal Code r/w secs. 4, 5 (L) & 6 of Protection of Children from Sexual Offences Act, 2012. He has been arrested on 12/7/2020. Since then he is in custody.

2. The allegations against present accused are that in April, 2020 the victim Neha aged 14 years and 6 months was alone in the house and accused went her house under the pretext of demanding water and taking advantage of loneliness of the victim he committed forcible sexual intercourse with her without her consent. The charge-sheet came to be filed alongwith present accused against two other accused for separate incidents of forcible sexual intercourse committed by them with the present victim. The other

two accused are released on bail.

3. Heard Ld. Advocate Shamkuwar for accused and Ld. Special PP for the State. The main point raised by Advocate for accused in his argument can be summarized as under :

- (1) The charge-sheet did not disclose the date of incident on which present accused committed forcible sexual assault on the victim.
- (2) Since 2nd March, 2020 lock down was declared in Maharashtra due to Covid situation and therefore the argument of prosecution that parents of the victim had gone out for work and victim was alone in the house is improbable .
- (3) Before alleged incident there were many incidents of sexual intercourse with the victim and last incident occurred in July,2020 and only thereafter report was lodged. Therefore there is much delay in lodging FIR which is not properly explained.
- (4) Accused has no past criminal antecedents.
- (5) Main culprits are released on bail.
- (6) Family of accused and victim have strained relations as there was quarrel between them and so accused was falsely implicated.

(7) Accused was admitted to Civil Hospital, Bhandara in August, 2020 with severe chest pains and therefore he needs immediate medical aid.

(8) Charge-sheet is filed and custody of accused is no longer required.

4. The Special PP argued that;

(1) There was no enmity between the two families.

(2) The alleged incident occurred when victim was alone in the house.

(3) Parents of victim are farmers and they were going out to work on their farm even during lock down.

(4) Victim did not discuss the incident with her parents due to fear and only when she missed her menstrual cycle and her mother inquired from her, she reported the same and this properly explained the delay in lodging report.

(5) The offence is serious and there is prima facie evidence against accused and medical evidence is also in favour of prosecution. If accused is released there are chances for tampering with witnesses and absconding.

5. I gave thoughtful consideration to this argument. I also perused the charge-sheet and other case papers. The report in this case was lodged by victim's mother Rambattibai. From the report it appears that the incident took place during 25/12/2019 to 2/7/2020. The report states that on 12/7/2020 victim's mother asked her whether she had menstrual period and victim stated that she has no menstruate period from six months. On further inquiry victim told her that on 25/12/2019 she was subjected to forcible sexual intercourse by various persons including present accused. However she did not state the date of alleged incident in respect of present accused and merely stated that the said incident occurred in April 2020. The age of the victim is 14 years and 6 months as stated by her. It is true that victim is minor. But prima facie it seems that inspite of repeated sexual assaults by different persons she did not complain about it to any family members and kept mum. Therefore, there is much delay in lodging the report. This delay can be explained by prosecution at the time of evidence. But considering that this is a bail application this is an important fact that there is delay of three months in lodging the report.

6. Ld. Counsel for accused has argued that

accused was having chest pain and he was required to be admitted to General Hospital, Bhandara and needs immediate treatment. Considering this medical ground also, it seems that it is just and proper to grant bail specially when investigation is completed and further custody of accused will not be required. I have also considered the argument that other two accused are already released on bail by Juvenile Court.

7. I have given consideration to the argument of Special P.P. that victim became pregnant and she delivered a child and DNA report of the child is yet to be received. In my opinion for receiving DNA report custody of accused is not required.

8. I have also considered the argument of defence that relations between victim's family and family of accused are strained and therefore accused is falsely implicated. At this juncture, the defence cannot be accepted without proof and it will have to be proved by cogent evidence. However in view of the consideration that the incident of alleged sexual assault by present accused was reported very late, according to prosecution story itself other persons have also forcibly sexually assaulted the victim, but no report in that respect was lodged by complainant, accused has pleaded that he is not keeping good

health and was required to be admitted to General Hospital, Bhandara for chest pain and the fact that victim was examined 10 days after the last assault and further that charge-sheet is filed, in my opinion this is a fit case to enlarge accused on bail. At the same time considering the grave nature of allegations, stringent conditions can be put upon him so that he will not misuse the bail. With this, I pass the following order.

ORDER

1. The application (Exh-2) is allowed.
2. The accused Vikas Kailash Maraskolhe be released on PR bond of Rs. 25,000/- with solvent surety in the like amount and subject to the following conditions :-

- (1) Accused should not try to tamper with prosecution evidence and he should not pressurized or threatened the victim and other prosecution witnesses.
- (2) Accused should not go in the vicinity of the victim's house till trial is completed.
- (3) Accused should report Police Station, Gondia Gramin on each Tuesday between 11.00 a.m. to 5.00 p.m. till trial is completed.

(4) Breach of any of these conditions it will result
in cancellation of bail.

Gondia.
Dt. 2/12/2020.

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