

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

**Special C. No. 99/2020**  
**(CNR No. MHGO010007532020)**

**State Vs. Vikas & Others.**

**ORDER PASSED BELOW APPLICATION (EXH-9)**  
**(Delivered on 04/01/2021)**

The present bail application has been filed by accused No.3 Sunil s/o Kisan Telgam, who is accused No.3 in Spl. Case No. 99/2020. The accused has been charge-sheeted alongwith other two accused by Gondia Gramin Police Station for offences punishable under sections 376(3), 376(2)(N), 450, 506 of Indian Penal Code read with sections 4, 5 (l) and section 6 of Protection of Children from Sexual Offences Act, 2012. Accused was arrested on 13/7/2020 and since then he is in custody.

2. The prosecution case, in brief is that in April, 2020 the victim was aged 13 years and 6 months was alone in the house and accused went to 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. Since separate incidents of forcible sexual intercourse by other two accused were reported, the charge-sheet came to be filed against present accused alongwith other two accused. The other two accused are released on bail.

3. Heard Ld. Adv. for accused, Adv. Shamkuwar and Ld. Spl. P.P. for the State. It was argued by Ld. Adv. for accused that on the date of alleged incident relating to this accused there was a marriage in the locality. It was submitted that prosecution has alleged that present accused called the victim in the court-yard of his house and committed forcible intercourse upon her. The Ld. Adv. submitted that food for the marriage was being prepared in the court-yard of present accused and crowd had gathered in front of his house for attending the marriage. Moreover, it was submitted that victim did not raise any alarm and therefore entire story for forcible intercourse is suspicious. In addition to this, it was contended that on the relevant day accused was out of Khamari for labour work and he was not in the village. It was further contended that there was enmity between the family of accused and family of victim and therefore accused was falsely implicated. It was thus, submitted that there is no prima facie evidence to detain accused in Jail. It was also pointed out that there were multiple incidents of alleged forcible intercourse by different persons and the report was lodged by unreasonable delay.

4. Ld. Spl. P.P. opposed the application. According to him, even though there were other incidents of similar nature by different persons, that does not mean that victim who is minor consented for intercourse. Ld. Spl. P.P. submitted that if accused released on bail, possibility of tampering witnesses, threatening the victim and repetition

of the offence cannot be ruled out.

5. I have given consideration to these submissions. I have also perused the order passed by my Predecessor dated 2/12/2020 granting bail to co-accused Vikas Maraskolhe. I have also perused the charge-sheet and other case papers. From the report, it appears that there were successive incidents of similar nature with the victim during 25/12/2019 to 2/7/2020 and the report was lodged on 12/7/2020 after much delay. It appears that inspite of repeated sexual assaults by different persons, victim did not complain about it to her family members. The prosecution will definitely get an opportunity to explain the delay at the time of evidence. However, this is a material fact for considering the application for bail.

6. As regards the argument of Ld. Adv. for accused that at the time of alleged incident on 2/7/2020 he was out of village, the said fact can be established by accused at the time of evidence. Similarly, the contention that there was enmity between two families has also to be established by evidence. However, the fact remains that prima facie it appears that there is much delay in lodging the report. The most important fact is, co-accused Vikas Marashkolhe has allegedly committed similar offence during the said period is already released on bail and applying principle of parity, present accused is also entitled for bail.

Hence, I proceed to pass following order.

**ORDER**

1. The application for bail (**Exh-9**) is allowed.
2. The accused Sunil s/o. Kisan Telgam be released on PR Bond of Rs.25,000/- with solvent surety in the like amount and subject to the following conditions :-
  - (i) Accused should not try to tamper with prosecution evidence and he should not pressurize and threatened the victim and other prosecution witnesses.
  - (ii) Accused should not go in the vicinity of the victim's house till trial is completed.
  - (iii) Accused should report Police Station, Gondia Gramin on each Tuesday between 11.00 a.m. to 5.00 p.m. till trial is completed.
  - (iv) Breach of any of these conditions it will result in cancellation of bail.

**Gondia.**  
Dt. 04/01/2021.

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