

IN THE COURT OF ADDITIONAL SESSIONS JUDGE
(POCSO), GONDIA.
Special C. No. 99/2020
(CNR No. MHGO010007532020)
State Vs. Vikash & Ors.

ORDER PASSED BELOW APPLICATION (EXH-20)

This an application under section 439 of Cr.P.C. filed by Subham Vasant Uikey, who is accused No.2 in this case. The present applicant/accused has been charge-sheeted by Gondia Gramin Police alongwith four other accused for offences 376(3), 376(2)(L), 450, 506 of Indian Penal Code read with sections 4, 5(L) 6, 11(iv) & 12 of Protection of Children from Sexual Offences Act. He was arrested on 13/7/2020 since then he is in custody.

2. The prosecution case in brief is that in March, 2020 the victim aged 13 years & 6 months was alone in the house and present accused went to her house and threatened her and committed sexual intercourse with her without her consent. Similar incidents occurred alongwith other accused persons. Therefore, charge-sheet was filed against all accused jointly. The other two accused are released on bail.

3. Heard Ld. Advocate for accused Advocate

Shamkuwar and Ld. Spl. P.P. for the State. Advocate Shamkuwar submitted that present accused is falsely implicated in the matter. It was contended that present applicant is the servant of one Prakash Lihare. It was further argued that victim's mother resides near Anaganwadi in which under garments of victim's mother were found by Prakash Lihare and since then there were strained relations between victim's family and Prakash Lihare's family and to save herself from defamation victim's mother falsely implicated present accused in the case as he is working with Prakash Lihare. It was submitted that there are successive incidents of similar nature with other accused persons starting from March, 2020 to July, 2020 and the report was lodged very late on 12th July, 2020. It was submitted that there is inordinate delay in lodging report. Ld. Advocate submitted that other two accused persons are already released on bail and investigation is completed. Therefore, it is not proper to detain this accused in Jail.

4. Ld. Spl. P.P. argued that the offence is very serious and grave and all accused persons including present applicant have played similar role in the offence and committed sexual assault on minor girl. Therefore, he submitted that accused does not deserve bail though investigation is completed.

5. I have perused the charge-sheet and other case papers. It is seen that there is not single incident of sexual assault with the victim but according to the victim, such incident were taking place from long period from March,2020 to July, 2020 but no report was lodged till July, 2020. Therefore, prima facie it seem that the report was lodged after much delay. The prosecution will definitely get opportunity to explain the delay at the time of evidence. However, for the purpose of bail application this is material fact to be considered.

6. As regards submission of Ld. Advocate for defence that accused is falsely implicated because of some previous incident relating to victim's mother and strained relations between victim's mother and one Prakash Lilhare employer of accused, that is fact which has to be proved by defence. However, in my opinion, prima facie there is much delay in lodging the report and other two accused are already granted bail. Therefore, on the principle of parity also the present accused is entitled for bail. However, considering the serious nature of allegations suitable conditions needs to be imposed upon him. With this I pass the following order.

ORDER

1. The application (Exh-20) is allowed.
2. The accused Subham Vasant Uikey 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.08/02/2021.

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