

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO.1665 OF 2018

Madhuri Shinde

... **Petitioner**

V/s.

The State of Maharashtra, through
Rasayani Police Station

... **Respondent**

Ms Nikiti Tilwani a/w. P. Parekh for the Petitioner.
Mr. S.S. Hulke, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 25th SEPTEMBER 2018

P.C.:

1. By the present petition under Article 227 of the Constitution of India, the petitioner, lawful guardian of minor victim girls in POCSO Spl. Case No.54/2015 arising out of F.I.R.No.47/2011 dated 10.06.2015 originally registered with Rasayani Police Station, Alibaug, Dist.Raigad, pending on the file of learned Additional Sessions Judge, Alibaug, Raigad, has prayed that, the trial of the said case may be expedited.

2. The record indicates that, after completion of investigation, the police have submitted charge-sheet on 03.09.2015, which has

culminated into POCSO Spl. Case No.54/2015 and the charge has been framed on 01.07.2016. That for last more than two years, the trial of the said case has not concluded. In the premise, the petitioner has prayed this Court for the afore-stated relief.

3. Section 35 of The Protection of Children from Sexual Offences Act, 2012 (the said Act) mandates that, the evidence of the child shall be recorded within a period of thirty days of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court. It further prescribes that, the Special Court shall complete the trial, as early as possible, within a period of one year from the date of taking cognizance of the offence.

As noted earlier, after completion of investigation, the police have submitted charge-sheet on 03.09.2015 and after taking cognizance of the said offence, the Trial Court has framed charge on 01.07.2015.

4. Learned APP, on instructions, submitted that as of today, seven whitenesses have been examined by the prosecution, out of which three witnesses are victim girls. There are four more victim girls to be examined by the prosecution. Learned APP, on instructions, further submitted that, the accused-persons, who are

on bail are not remaining present on the prescribed dates before the trial Court and are seeking adjournments in the matter, due to which, the trial of the said case has prolonged.

5. It is to be noted here that, the Trial Court can and at liberty to exercise all the powers available under the Cr.P.C. for securing presence of the accused-persons and therefore, it cannot be a reason for prolonging the trial particularly in view of the mandate of the legislature as mentioned hereinabove.

6. In view of the above, the learned Additional Sessions Judge, Alibaug, Dist.Raigad seized of the POCSO Spl.Case No.54/2014 is hereby directed to expedite the hearing of the said case and to make an endeavour to conduct the same on day to day basis and to conclude the trial of the said case within a period of six months from the date of receipt of the present order.

7. Petition is allowed in the aforesaid terms.

(A.S.GADKARI, J.)