

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 297 OF 2022

Ram @ Rameshwar Ankush Kamble

..PETITIONER

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. Ajinkya Reddy, Advocate for petitioner
Mr. R.B. Bagul, A.P.P. for respondent - State
....

**CORAM : R.G. AVACHAT, J.
DATED : 08th MARCH, 2022**

PER COURT :

1. Heard.

2. The petitioner herein is an accused in Special Case (POCSO) No. 9 of 2015. Recording of evidence for the prosecution is over. Statement under Section 313 of Code of Criminal Procedure has also been recorded. The petitioner-accused thereafter moved an application Exhibit 80 for forwarding certain letters, allegedly written by the victim/informant to him, to the handwriting expert for solicitation of his opinion in that regard. The trial Court has rejected the said application on the ground that the victim is a minor and even if the said exercise is undertaken and report is in favour of the petitioner, no purpose could be served since consent of a minor is non-est in the eyes of law.

3. It appears that the trial Court has appreciated the evidence in the case. The Court observed the victim to have been a child. It should not form such an opinion, at this stage. This Court does not propose to make any observations as to the contents of the letter. One of the letters suggests that the author of the said letter had expressed her mind to join the petitioner herein so that they may elope. With a view to extend the petitioner an opportunity to place his defence effectively, the application ought to have been allowed by the Court.

4. In view of above, criminal writ petition is allowed in terms of prayer clauses (B) and (D). The learned trial Judge may obtain specimen handwriting/signature of the victim in view of Section 311-A of Code of Criminal Procedure and alongwith the victim's signature appearing on the first information report, send it to the office of handwriting expert at Aurangabad. Necessary expenditure to be borne by the petitioner. The report of handwriting expert is expected within four months of the receipt of requisition.

(R.G. AVACHAT, J.)

SSD