



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL WRIT PETITION NO.1140 OF 2022**

**TULSHIRAM SAMBHAJI PARDHE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Mr. A. V. Hande, Advocate for the Petitioner.
Mrs. P. J. Bharad, APP for Respondents-State.
Mr. A. B. Shinde, Advocate for Respondent No.2.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 29th NOVEMBER, 2023.**

PER COURT:-

1. The petitioner impugns the order dated 05.04.2022 passed by the learned Extra District Judge-1 and Additional Sessions Judge, Nanded below Exhibit-19 in Special (POCSO) Case No.53/2019 by which the prayer of the petitioner/accused seeking direction against prosecution to place on record medical papers regarding treatment advanced to the victim during the period from 29.08.2019 to 09.09.2019 and further from 30.09.2019 to 06.10.2019 has been rejected.

2. The learned Advocate appearing for the petitioner/accused vehemently submits that the petitioner had tendered an application before the Special Court seeking direction against the prosecution to produce the papers of medical treatment advanced to the victim. Such documents are necessary for effective cross-examination of the victim. The prosecution has intentionally withhold the aforesaid documents. Therefore, the prayer of the petitioner/accused ought to have been granted. He would submit that the learned Special Judge has rejected the application giving erroneous reasons. Therefore, he urges to issue direction against the prosecution to produce the relevant record of medical treatment advanced to the victim.

3. The learned APP vehemently opposes the prayer. She would submit that the charge-sheet contains relevant documents regarding admission of the victim in the hospital, so also discharge from the hospital, which contains necessary details regarding medical treatment advanced to her. She would submit that at this stage the prayer of the accused do not require consideration, since the prosecution is going to examine the Medical Officer, who would be appearing before the Court alongwith relevant record and the accused would have access to the requisite documents.

4. Having considered submissions advanced, apparently the relevant record in respect of admission and discharge of the victim is placed on record of the Special Court alongwith charge-sheet. Perusal of the application tendered on behalf of the accused shows that omnibus prayer is incorporated seeking direction to produce all the papers regarding treatment advanced to the victim during the period from 03.09.2019 to 06.10.2019 at Government Hospital. No specific reason is mentioned in the application as regards to why such documents are necessary for effective defence of the accused. Perusal of the impugned order would show that learned Special Court has given due consideration to the contents of the application and submissions advanced by both the sides. It has been specifically observed that the Medical Officer would be examined, who shall appear before the Court alongwith relevant papers.

5. In case accused finds difficulty in putting his effective defence, he would have liberty to reiterate his prayer afresh or he would be in the position to pursue Court to draw adverse inference against prosecution.

6. Considering the aforesaid circumstances and reasoning adopted by the Special Judge, no case is made out for causing interference in the Writ jurisdiction of this Court. Hence, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE