

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

CRIMINAL WRIT PETITION NO. 1819 OF 2022

Kedar Kishor Bhusari

..PETITIONER

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. V.B. Patil, Advocate for petitioner

Mr. A.R. Kale, A.P.P. for respondent no.1 – State

Mr. C.K. Shinde, Advocate for respective no.2

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 30th JANUARY, 2023

PER COURT :

1. The petitioner herein has sought to direct the Registrar, Bombay High Court, Aurangabad Bench to transfer the following cases from the Court of Special Court (POCSO), Jalgaon to any other Court in the State of Maharashtra :-

Sr.No.	Special Case No.	Sr.No.	Special Case No.
1	50/2018	9	89/2022
2	12/2018	10	148/2020
3	88/2022	11	124/2020
4	91/2014	12	04/2020
5	69/2021	13	153/2022
6	156/2022	14	542/2022
7	226/2021	15	21/2016
8	263/2022	16	14/2019

2. The records reveal that Mr. B.S. Mahajan, Additional Sessions Judge has been appointed as Special Judge (POCSO), Jalgaon and that he has taken charge since March 2022. Learned counsel for the petitioner states that, Anna Sukdeo Mahajan, the brother of the learned Judge has filed a Civil Suit No. 5 of 1996 against the learned Judge Mr. B.S. Mahajan and others. The petitioner, who is an Advocate, has been representing the brother of the Presiding Officer in the said civil suit. Learned counsel for the petitioner states that though the petitioner had put in his appearance in special cases at Sr. Nos. 1, 8, 14 and 15, he will not be representing the accused in the said cases and that will be giving his no objection to another advocate. It is further stated that the petitioner has also given no objection to another advocate in respect of the special case at Sr. No.7. Learned counsel for the petitioner, therefore, states that he is not pressing any relief in respect of the special cases at Sr. Nos. 1, 7, 8, 14 and 15.

3. The petitioner has filed a list of sixteen cases pending on the file of learned Judge, whom he (the petitioner) has been representing the accused. The petitioner had put in his appearance in these cases, except cases at Sr. Nos. 1,7, 8, 14 and 15 much prior to March 2022. The petitioner states that he will withdraw his appearance in cases at Sr. Nos. 1, 7, 8, 14 and 15 and seeks transfer of the other cases on apprehension that he may not get justice in the Court before which the cases are pending. The apprehension

may not be absolutely correct but can be said to be a reasonable apprehension. Moreover, it will also be improper for the Judge to take up these cases knowing fully well that the petitioner is representing his opponent before the civil Court. It is oft said – justice should not only be done but manifestly be seen to be done. Keeping this principle in mind, we are of the view that the cases at Sr. Nos. 2 to 6, 9 to 13 and 16 are required to be transferred.

4. Hence, the petition is allowed. The Principal District and Sessions Judge, Jalgaon is directed to allot Special Cases at Sr. Nos. 2 to 6, 9 to 13 and 16 to any other Court/Courts competent to try the cases under the Protection of Children from Sexual Offences Act, 2012. Criminal writ petition stands disposed of accordingly.

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)