



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

76 CRIMINAL APPLICATION NO.4329 OF 2023

VIJAY SITARAM HIWALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. R. B. Ade, Advocate for Applicant.
Mrs. P. R. Bharaswadkar, APP for Respondent No.1/State.
...

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

DATE : 22 JULY 2025

ORDER :

. We have gone through the report/request from learned Special Judge, under the POCSO Act, for extension of time to dispose of Special Case No.366 of 2023. This is the second time extension that has been requested. When the matter was on board on 30.06.2025, we found that the report is vague. It was not stated how many witnesses are yet to be examined, though it is stated that six witnesses have been examined. It was also found that the learned Principal District and Sessions Judge, Aurangabad had not followed the circular dated 17.05.2024 and, therefore, the report was sent back. Now, with fresh request vide letter dated 11.07.2025 and remark of learned Principal District and Sessions Judge dated 12.07.2025, the extension has been sought. It is stated

that there is digital evidence and the report from Forensic Science Laboratory is not yet received and, therefore, further evidence of informant, seizure, spot, digital expert and the police witnesses, has not been recorded. We do not find this to be a reasonable ground for extension of time to dispose of the matter. Still the matter lacks the efforts made by the learned Special Judge to get the report from Forensic Science Laboratory. Directly a witness summons for production of the report could have been issued. It cannot be stated that producing the report of the expert is only the work or duty of the investigating agency or the prosecution. The Courts are not powerless to get such report produced. When no steps have been taken and rather a picture has been painted that the Court is powerless, then such extensions cannot be allowed. However, the parties should not suffer and, therefore, we are granting extension of time to dispose of Special Case No.366 of 2023 by the end of this year i.e. on or before 31.12.2025. No more extension would be granted.

2. We direct learned Special Judge, under the POCSO Act, to get the Forensic Science Laboratory report produced and the expert to be examined by issuing witness summons. If they fail in doing that the further steps still can be taken i.e. issuance of warrant. The learned Judge should consider that because of this delay, the right of the accused of getting speedy justice is jeopardized. Even the prosecution

has right of speedy trial. We are aware that there is huge pendency with Forensic Science Laboratory throughout the State, but pendency cannot be the ground to delay the trial of a part heard case. We hope that the learned Special Judge, under POCSO Act, acts accordingly and even placing the matter for hearing on day to day basis can also be explored.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm