

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.264 OF 2023

XYZ

.. Petitioner

v/s.

The State of Maharashtra & Ors.

.. Respondents

....

Ms. Babita Pandey, for the Petitioner.

Ms. Anamika Malhotra, APP, for Respondent State.

....

CORAM: R.G. AVACHAT, J.

DATE : 16 FEBRUARY 2023.

P.C:-

Heard.

2. The challenge in this writ petition is to the order dated 3 December 2022, passed by the Extra Joint Special Judge under Protection of Children from Sexual Violence Act (POCSO) Act in Special Case No.484 of 2017. The Petitioner herein is the victim. Pursuant to the FIR lodged by her father, a crime vide C.R. No. 82 of 2020 came to be registered for offences punishable under Sections 363, 366, 376, 354, 212 of the Indian Penal Code and Sections 4, 8 and 12 of POCSO Act against one Sagar and five others. The said crime dates back to 18 March 2017. On investigation of the said crime

charge-sheet has been filed. The Petitioner herein filed an application for cancellation of bail granted to accused nos. 2 to 4 in the said case.

3. The Petitioner herein moved the application Exhibit 47 in the said Special Case, seeking direction to the Investigation Officer, Nehru Nagar Police Station, to collect/retrieve the CDR/SDR of accused persons from their respective Mobile Network Providers for the period of twelve months preceding the date of application. The application was moved in 2022.

4. If original accused nos. 2 to 4 have committed any other offence against the Petitioner herein, that would be a subject of an independent FIR or complaint to be lodged by her. Based on the very reason, the trial court has rightly rejected the Application-Exhibit 47. This Court is, therefore, not even inclined to issue notice in this matter.

5. According to this Court, its a case wherein exemplary cost should be imposed, but for the Petitioner being a woman.

6. The petition, thus, stands dismissed.

(R.G. AVACHAT, J.)