

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2891 OF 2024

Basantlal Budhiram Bind	]	Petitioner
Vs.		
The State of Maharashtra	]	Respondent

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Mr. Priyanshu Mishra Appointed Advocate, for Petitioner.

Ms. Kranti T. Hiwrale, A.P.P, for Respondent-State.

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**CORAM : REVATI MOHITE DERE &
ADVAIT M. SETHNA, J.J.**

DATE : 17th DECEMBER, 2024.

P.C:

1. By this petition, preferred through the Legal Services Authority, the petitioner essentially seeks fast tracking of his case, which is pending for the last five years. According to the petitioner, he is in custody for five years; and that till date, he is not produced before the concerned Court nor is his case being heard by the trial Court.

2. It appears that the prosecutrix/victim was aged five years at the time of the incident. We, in Criminal Bail Application No.3242

of 2019 had issued certain guidelines to the Trial Courts conducting cases under the Protection of Children from Sexual Offences Act, 2012 (for short “POCSO”), particularly where the victim is young.

The said guidelines are as under;

(i) The Special Courts to ensure that the deposition of the child/victim is recorded as expeditiously as possible, keeping in mind the mandate of the POCSO Act, and the observations made by this Court hereinabove;

(ii) The Special Courts to conclude the recording of evidence i.e examination-in-chief and cross-examination of the victim, as expeditiously as possible, preferably on the same day, unless adjournment is warranted;

(iii) The Courts to also ensure that the victim/child is not called frequently to the Court, as this would add to victim/child’s trauma;

(iv) Adjournments whilst examining the child/victim should be minimal and if granted, reasons be recorded warranting adjournment. Unwarranted adjournments should not be entertained;

(v) When the child/victim is examined, all precautions/safeguards i.e. child friendly practices be taken/adopted to ensure that the child/ victim feels safe, is comfortable, and that the child/victim is not in any way exposed to the accused; that the proceedings are conducted in-camera; that all measures as stipulated in the Act and directions

given by various judgments are duly complied with. It is always open for the learned Judge in cases, where necessary, to call the child/victim to Court, prior to recording of the deposition, so that, the child/victim is acclimatized/familiarized with the set-up, so that the child/victim has no fear of what to expect in Court on the day of the deposition, which can aid in the child/victim in deposing freely, without fear or anxiety;

(vi) The Court to ensure that the parents of the child or any other person in whom the child has trust or confidence, is present at the time of examination of the child, as mandated under Section 37 of the POCSO Act. If the Court is of the opinion that the child needs to be examined at a place other than the Court, it shall do so in terms of the proviso to Section 37;

*(vii) The directions of the Apex Court in **Children in Street Situations, In Re, 2022 SCC OnLine SC 189** and other judgments in this regard be followed scrupulously whilst conducting trials under the POCSO Act”.*

The girl would be 10 years by now. Despite directions issued to all courts with respect to examination of POCSO victims, till date, the victim has not been examined.

3. Considering the aforesaid, we deem it appropriate to call for a report from the concerned Court i.e District Judge-2 and Addl.

Sessions Judge, Vasai, as to why the said guidelines issued by this Court to all the Trial Courts have not been complied with and why the victim has not been examined till date, despite the mandate of the POCSO Act as well as the guidelines issued by this Court. The said report be submitted by the concerned Judge in the Registry on or before 10th January, 2025.

4. Stand over to **13th January, 2025 at 2.30 p.m.**

5. Registry to forthwith communicate the said order to the learned District Judge-2 and Addl. Sessions Judge, Vasai by Fax/email or through a special messenger, so as to enable the learned Judge to comply with the order passed.

[ADVAIT M. SETHNA, J.]

[REVATI MOHITE DERE, J.]