IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

15 CRIMINAL WRIT PETITION NO. 292 OF 2025

Usha Dnyaneshwar Sapkale
VERSUS
The State of Maharashtra and others
...
Advocate for the Petitioner : Mr. Shriniwas A. Kulkarni (Through Legal Aid)
APP for Respondents: Mr. A.M. Phule
.....

CORAM : **SMT. VIBHA KANKANWADI AND SANJAY A. DESHMUKH, JJ.**
DATED : **12th MARCH, 2025**

PER COURT :-

1. The present writ petition has been filed for direction to produce the minor daughter of the petitioner.

2. The interesting point to be noted is that the petitioner herself is an accused in Special Case No. 226 of 2021, which is pending before the learned Special Judge, under POCSO Act, Jalgaon for the offences punishable under Section 376 of I.P.C. and sections 4, 8 and 12 of the Protection of Child from Sexual Offences Act, 2012. It is arising out of F.I.R. vide C.R. No.330 of 2021, registered with Dharangaon police station. The prosecution in that matter had come with a case that the present petitioner, who is mother of the minor, petitioner's husband, bridegroom - Rahul

Birhade and others, in all five persons, were arrested in connection with that matter in December, 2021. It appears that in that matter, the offence is also registered under the Child Marriage Restraints Act, 2006. It also appears that one compliant was lodged by the husband of the present petitioner before *Mahila Sahayyata Kasha (*Bharosa Cell*)*, Jalgaon on 01.09.2022, wherein he alleged that the minor girl is giving threats to him for money and documents. He could have definitely sought custody by legal means being a guardian of the said minor daughter. When the offence was registered under those sections in December, 2021, the age of the girl was stated to be 15 years and therefore, when this complaint was filed, a statement was given by the husband of the petitioner, on 02.09.2022 that she should have been hardly 16 years of age. Then there appears to be an application dated 17.08.2023 filed under Section 97 of Cr.P.C. which might have been wrongly presented before the Collector, Jalgaon, by the maternal grand-mother. In that matter the prayer was for issuance of warrant and custody. When specifically asked, learned advocate for the petitioner submits that the said application is still pending. How the maternal grand-mother was seeking custody of the girl is a different question.

3. Now the mother has come with a case after so many years, stating that the girl is missing or has been wrongly confined by

respondent Nos. 3 and 4. Respondent No.3 is the same person with whom, the petitioner had given her minor daughter in marriage. Under the said circumstances, we do not find that the petition has been filed with good intention. There are malafides and therefore, not a fit case where we should exercise our constitutional powers. The writ petition is rejected at the threshold.

(SANJAY A. DESHMUKH, J.) **(SMT. VIBHA KANKANWADI, J.)**

rlj/