



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

CRIMINAL WRIT PETITION NO.914 OF 2025

- 1) X Y Z (Father of the Victim,
- 2) X Y Z (Mother of the Victim),
- 3) X Y Z (Victim),
Minor, Through her father
i.e. Petitioner No.1.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through its Secretary,
Home Department,
Mantralaya, Mumbai,
- 2) The Superintendent of Police,
Ahmednagar, District-Ahmednagar,
- 3) The Sangamner Taluka Police Station,
Through its Police Inspector,
Sangamner, Taluka-Sangamner,
District-Ahilyanagar,
- 4) The President,
Child Welfare Committee,
Ahilyanagar, Taluka and
District-Ahilyanagar,
- 5) Mahesh Wamanrao Shinde,
Age-Major, Occu:Police Sub Inspector,
Sangamner Taluka Police Station,
Taluka-Sangamner,
District-Ahilyanagar.

...RESPONDENTS

...
Mr. Yuvraj S. Choudhari Advocate for Petitioners.
Ms. P.R. Bharaswadkar, A.P.P. for Respondent Nos. 1 to 3.
Mr. Satyajeet S. Dixit Advocate for Respondent No.5.
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**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE OF RESERVING ORDER : 19th AUGUST 2025

DATE OF PRONOUNCING ORDER : 14th OCTOBER 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present petitioners are the minor victim and the parents. They say that they are constrained to approach this Court as the investigation in the matter has been handled with *mala fides*. The father of the victim lodged the First Information Report (for short "the FIR") for kidnapping, on 28th April 2025 vide Crime No.289 of 2025 with Sangamner Taluka Police Station, District-Ahilyanagar. Respondent No.5 was conducting the investigation. The petitioners have made allegations against respondent No.5 that he made investigation in such a manner that would be helpful to the accused and when certain persons were required to be made as an accused, they have been made witnesses. The victim is 15 years and 7 months old, who used to attend MSCIT Classes from her house to village Talegaon Dighe. Around 3.00

p.m. on 28th April 2025, she left the house with her Adhar Card and did not return till 9.00 p.m. and therefore, the inquiry was made and when she was not found, the said FIR was lodged for the offence punishable under Section 137(2) of the Bharatiya Nyaya Sanhita. Thereafter she was found in the custody of accused Vithal Nehe on 16th May 2025, at Ambad Bus Stand, Taluka-Ambad, District-Jalna. In fact the passengers on the Bus Stand were suspicious about the accused and the minor victim in respect of their unusual behaviour. The said accused was of 32 years of age. The passengers came to know that the victim is minor but was introduced as wife of the said accused. Then those passengers had taken both of them to Ambad Police Station. Information was given to Sangamner Taluka Police Station and then on the same day the victim as well as accused were brought to Sangamner Police Station in the vehicle of the relative of the accused where they were kept in the same room whole night on 16th May 2025. Even respondent No.5 has kept the victim in Police Station over night with the main accused. Information about victim being found was not given to the parents and her custody was not handed over to her parents immediately. Two statements of the victim were recorded by respondent No.5 for the reasons best known to him, on 17th May

2025. In fact the whole statement was prepared by the investigating officer with his own imagination and the victim was asked to sign on the statement. There was no whisper about the name of the accused who abetted or helped the main accused in the entire episode. The parents of the victim i.e. petitioner Nos.1 and 2 are educated up-to 4th standard only. Respondent No.5 has threatened the petitioners and took the statements as per his own versions. Even respondent No.5 has doubted the character of the victim on certain occasions. Respondent No.5 had called the petitioners to police station on 24th May 2025 and then asked to remain present before Child Welfare Committee, Ahilyanagar on 25th May 2025. Respondent No.5 had given phone number of one Smt. Anuradha Yewle of Child Welfare Committee and asked the petitioners to call her. Respondent No.5 handed over the first statement with the petitioners and asked the petitioners to give the same statement before the Child Welfare Committee. Then petitioners objected to the same and stated that their statement would be as per second statement that is given on 17th May 2025. The petitioners requested that their supplementary statement should be recorded, however, even the member of Child Welfare Committee has not helped them. The main accused is influential. The petitioners have quoted some other incidences

also. One of the same is that respondent No.5 had taken the statement of one Sachin Gangadhar Bhor, who happens to be close relative of the main accused. The victim was in fact taken in the house of said Sachin Bhor and said Sachin had the knowledge that the victim is minor, yet in order to show that the victim is married to main accused, the said Sachin had brought Mangalsutra. He was helping the main accused to show that the victim is major. Even the changes have been made in the Adhar Card and it has been tried to be shown that she is more than 18 years of age. Thus there is every attempt to save the main accused.

2. Learned APP submitted that now the investigation is over and charge-sheet has been filed against Vithal Anshabapu Nehe before the Special Court under the Protection of Children from Sexual Offences Act.

3. Here it is to be noted that a question is, now, whether we can ask further investigation by exercising our powers under the Constitution when the charge-sheet is filed. However, when the petition was filed, charge-sheet was not filed and therefore, still we can consider the aspect. The first and foremost fact to be

noted is, when it was shown prima facie that when FIR was lodged the girl was 15 years of age, then investigation ought to have been by a lady police officer. Further, respondent No.5 appeared in the matter, filed the affidavit-in-reply. He denied all the allegations against him that he has aided co-accused. He states that FIR by the father regarding kidnapping was against unknown persons. It is stated that it is a matter of record that the victim along with the accused was found at Ambad Bus Stand on 16th May 2025. After receiving information from Ambad Police Station, the police officers from Sangamner Police Station had gone to Ambad Police Station and brought the victim as well as the co-accused to Sangamner Police Station on 17th May 2025. Statement of the victim was recorded as per her say. It is then stated that after the completion of medical examination, the victim became panic and therefore, she was not immediately referred to the Child Welfare Committee, but was handed over to the parents. He denies that he had prepared the statements of the victim as per his own whims. It fact it was recorded in the presence of victim's mother. Supplementary statements of petitioner Nos.1 and 2 have also been recorded. He denies the charge that Sachin Bhor had made changes in the Adhar Card of the victim and had brought Mangalsutra for her.

4. The record i.e. the charge-sheet would show that statements of witnesses have been recorded. The birth certificate of the victim has been collected, which shows that she is minor, aged 15 years and 6 months. The investigation, therefore, ought to have been with every sensitivity. After the girl was found and her statement was recorded, sections under the Protection of Children from Sexual Offences Act have been added. However, the matter was then not investigated by any lady police officer. Upon inquiry, it was told that in Sangamner Taluka Police Station there is no lady police officer of the rank of P.S.I. and above. This is a sorry state of affairs, when such offences are supposed to be investigated by a lady police officer.

5. Now the *mala fides* have been pleaded as against respondent No.5, the investigating officer. The girl was taken from Sangamner, District-Ahilyanagar and it is stated that she was found at Ambad Bus Stand. There is a general diary entry that has been collected from Ambad Police Station, District-Jalna bearing date 17th May 2025, showing that victim and accused were taken in custody by police head constable with lady constable from Sangamner Taluka Police Station. It is stated that

the girl's name was involved in the offence vide Crime No.289 of 2025. However, according to the petitioners, the statement of the victim has not been recorded as per her own contentions. It was her contention that she as well as the main accused were in Ambad Bus Stand on 16th May 2025 and the passengers had then, on suspicion, handed over them to Ambad Police Station. How they were brought to Ambad Police Station, is missing in the entire charge-sheet. Statement of the police officers from Ambad Police Station have not been recorded for the reasons best known to respondent No.5. Why he had not collected the C.C.T.V. footage from Ambad Bus Stand, and who were the persons who had taken the victim and the main accused from Ambad Bus Stand to Ambad Police Station has also not been disclosed.

6. Another fact to be noted is that there is statement of one Sandeep Raosaheb Sonawane and statement recorded by learned Magistrate of one Sachin Bhor, which would disclose that at one point of time they were knowing that the girl is minor, yet they had not taken her to police. There is no proper investigation in respect of them. Now the petitioners contend that on 16th May 2025 victim was kept in the same room with the main accused

by respondent No.5. Under such circumstance, certainly further investigation is required though charge-sheet has been filed by respondent No.5. It appears that on many occasions the victim had made complaint or representation to respondent No.5 but he has hurriedly filed the charge-sheet. In his affidavit-in-reply, respondent No.5 has not disclosed and the charge-sheet does not show that statement of the victim is video-graphed as per Section 173(1)(ii)(b) of the Bharatiya Nagarik Suraksha Sanhita and that he had informed the progress of the investigation to the informant or the victim as provided under Section 193(3)(ii) of the Bharatiya Nagarik Suraksha Sanhita. The investigation cannot be made to shield any accused and therefore, further investigation is required. Hence the following order:-

ORDER

- (I) The Criminal Writ Petition stands partly allowed.
- (II) Taking into consideration the fact that in Sangamner Taluka Police Station a lady police officer of the rank of Police Sub Inspector and above is not available, we direct Ms. Tejashri Vithal Thorat, attached to Kotwali Police Station, Ahilyanagar to

take over the investigation in respect of Crime No.289 of 2025, registered with Sangamner Taluka Police Station, District-Ahilyanagar and to carry out the further investigation.

(III) Though the charge-sheet has been filed before the learned Special Judge under the Protection of Children from Sexual Offences Act, the further proceedings in the said matter are stayed till the completion of the further investigation. The further investigation to be made as early as possible.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/SEP25