



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL WRIT PETITION NO. 361 OF 2025

(Santosh s/o Sadhubova Sarkate @ Nanya Prakash Yerne
Vs.
State of Maharashtra)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. I.K. Daudasare, Advocate for the Petitioner.
Mr. A.A. Madiwale, APP for the Respondent/State.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 31st JULY, 2025

1. Heard learned Counsel for the Petitioner and learned APP for the Respondent/State.

2. By this Writ Petition, the Petitioner is challenging the order dated 18.09.2024 passed by the learned Additional Sessions Judge Special Court (POCSO) Chandrapur on Exh. 26 in Special Case (POCSO) No.117/2023, wherein the application filed by the Petitioner for recalling of witness was rejected.

3. The Petitioner is facing trial under Section 376(3), 376(2)(F), 376(2)(N), 323 of Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences, (POCSO) Act and under Section 75 of the Juvenile Justice (Care and Protection of the Children) Act, 2015 and the same is pending before the learned Additional Sessions Judge Special Court POCSO.

4. The Petition is filed only on the ground that the material questions remained to be asked to the vital witness i.e. the Victim and due to which the defence Counsel could not cross-examine the witness, and therefore, opportunity is to be granted to the accused to cross-examine the witness at length as the burden lies on the present Petitioner to review the presumption under Section 29 of the POSCO Act.

5. Perused the Petition. Admittedly, the Petitioner nowhere reveals this ground in the Petition. In view of that and in the interest of justice and considering the vide powers given under Section 313 of Cr.P.C., the liberty is granted to the present Petitioner to file an application before the Special Court with due reasons and the Special Court shall consider the said application on its own merits considering the vide powers under Section 313 of Cr.P.C.

6. With these directions, the Petition is **disposed** of. No costs.

7. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)