



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 335 OF 2025

Pravin s/o Narsing Jethewad,
Age : 42 years, Occ. Business,
R/o Mayur Talkies Naik Nagar,
Taroda (bk), Nanded.

... Petitioner

versus

1. The State of Maharashtra
Through Police Inspector,
Bhokar Police Station,
Tq. Bhokar, Dist. Nanded.

2. X Y Z

... Respondents

.....

Mr. Suraj R. Mantri, Advocate for the Revision Petitioner.
Mr. S. K. Shirse, APP for Respondent No.1-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 08.01.2026

Pronounced on : 12.01.2026

ORDER :-

1. This revision petition is directed against the order dated 04.03.2025 passed by learned Additional Sessions Judge, Bhokar on application Exhibit 15 seeking discharge from offence under Section 228-A IPC and Section 23(2) of Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. In nutshell, one crime bearing no. 34 of 2021 came to be registered at Bhokar Police Station for commission of offence under Sections 363, 302, 376-A, 376-2 (j)(m), 376-AB and 377 of IPC along with Sections 4, 6, 8, 10 and 12 of POCSO Act by Police Officer. Investigation was carried out and charge sheet was filed against accused who perpetrated the above crime.

3. Subsequently on allegation of commission of offence under Section 228-A of IPC and Section 23(2) of POCSO Act, crime came to be registered on the premise that, there was disclosure of identity of victim at the instance of present revision petitioner, i.e. by keeping status referring to the victim girl on the whatsapp, and thereby accusations and charges were slapped for commission of offence under Section 23(2) of POCSO Act and therefore, fresh crime was registered vide no. 35 of 2021 against present revision petitioner.

4. Above crime was also independently investigated and revision petitioner was arraigned as accused and chargesheeted. He preferred Exhibit 15 seeking discharge contending that, no offence is made out and whatever posting was done on whatsapp was by way of condolence and there was no ill intention to defame or deliberately disclose identity of the victim. Said application was contested by

prosecution and finally, by order dated 04.03.2025, application came to be rejected giving rise to present revision petition.

5. Learned counsel for applicant would submit that, there is false implication. Revision petitioner is a social worker. He had condemned the offence inflicted on the victim and had expressed condolences on WhatsApp. There was no intention to deliberately disclose the identity of the victim and revision petitioner was rather unaware of prohibition of such nature incorporated in the statute. That, he did not mean to lower the dignity or status of the victim. Furthermore, here, there is no complaint by any of victim's guardians. He pointed out that, even permission of Magistrate has not been obtained and therefore, it was a fit case for discharge but, according to him, learned trial court failed to consider and appreciate the same.

6. Learned counsel further took this Court through the provision laid down in Section 23 of POCSO Act and would emphasize that, the very import and essential of said section is an attempt to lower the reputation or infringe upon privacy of the victim, but here, it was missing as revision petitioner never intended to indulge in such act. According to him, intention of posting ought to have been appreciated in correct perspective by the learned trial court.

7. He further urged for stay to the process of framing charge as, according to him, on account of difference in opinion regarding the question as to “whether Section 155(2) of Cr.P.C. applies to investigation of an offence under Section 23 of POCSO Act?”, the Hon’ble Apex Court has referred the question to the Larger Bench and as such, the Larger Bench is yet to be constituted and therefore, till its decision he prays to grant stay to the process of framing charge. He placed on record the said judgment of Hon’ble Apex Court in the case of *Gangadhar Narayan Nayak @ Gangadhar Hiregutti V. State of Karnataka and others* AIR OnLine 2022 SC 371.

8. Learned APP supports the order of rejection of discharge application and also prays to dismiss the revision.

9. On going through the papers, it emerges that one FIR bearing no. 34 of 2021 for above referred offences of IPC and POCSO Act committed on minor came to be registered at Bhokar Police Station. Subsequently, after investigation, accused in that case came to be chargesheeted and tried vide Special Case bearing no. 18 of 2021.

10. One Police Inspector of Bhokar Police Station lodged report on 23.01.2021 against present revision petitioner for commission of offence under Section 23 of POCSO Act. Special Court issued summons to the revision petitioner alleging commission of offence under Section 23 of POCSO Act, i.e. causing disclosure of identity of child victim by publishing it on social media like facebook and therefore, distinct crime was registered for above offence. Hence, before Special Court, Exhibit 15 urging for discharge came to be pressed into service and the same came to be rejected.

11. Section 23 of the POCSO Act reads as under :

“23. Procedure for media.-

(1) No person shall make any report or present comments on any child from any form of media or studio or photographic facilities without having complete and authentic information, which may have the effect of lowering his reputation or infringing upon his privacy.

(2) No reports in any media shall disclose, the identity of a child including his name, address, photograph, family details, school, neighbourhood or any other particulars which may lead to disclosure of identity of the child:

Provided that for reasons to be recorded in writing, the Special Court, competent to try the case under the Act, may permit such disclosure, if in its opinion such disclosure is in the interest of the child.

(3) The publisher or owner of the media or studio or photographic facilities shall be jointly and severally liable for the acts and omissions of his employee.

(4) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be liable to be punished with imprisonment of either description for a period which shall not be less than six months but which may extend to one year or with fine or with both.”

12. The above provision provides for prohibition from publication of identity of the victim and it is made a punishable offence. Copy of extract of alleged disclosure is also part of the annexures. Explicitly the said text, which is at the instance of present revision petitioner, not only carries name of the minor victim, but also her photograph. There is an appeal made to others to share and forward the text. Though it is an attempt to express condolence, at this stage, *prima facie* what is prohibited and banned by the statute seems to have been committed.

13. As regards to submission of learned counsel that there is non compliance of Section 155(2) of Cr.P.C. and no permission from the Magistrate, and issue to that extent being referred by the Hon'ble Apex Court to the Larger Bench vide judgment in above referred case of ***Gangadhar Narayan Nayak*** (supra), it is fairly settled position that, hands of this Court cannot be tied till decision of reference and existing legal position can be applied till then.

14. For such reason, above prayer for stay cannot be granted. As stated above, there is material suggesting commission of offence under Section 23 of POCSO Act and as such, it is not a fit case to discharge as prayed. Hence, following order :

ORDER

The Criminal Revision Application is hereby Rejected.

[ABHAY S. WAGHWASE, J.]