

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 604 OF 2026

Roshan Navratanmal Sipani S/o
Shri Navatanmal Sipani
V/s.

... Petitioner

The State of Maharashtra & Anr.

... Respondents

Ms. Kajal Singh a/w Mr. Kishore Salunke, Mr. Diwakal Singh,
Advocate for Petitioner.

Mr. Sukanta Karmakar, APP for Respondent – State.

Mr. Sudhir Patil – API, Kopri Police Station, Thane.

CORAM : ASHWIN D. BHOBE, J.

DATE : 13th FEBRUARY, 2026.

P.C. :

1. Heard Ms. Kajal Singh, learned Advocate for the
Petitioner and Mr. Sukanta Karmakar, APP for Respondent – State.

2. At the outset, Ms. Kajal Singh, learned Advocate for the
Petitioner, states that there is an omission in the mention of the
sections of the offence charged, as well as a mistake in the mention

of the number of the Special Case in the memo of petition, as such, she craves leave to amend the petition. Mr Sukanta Karmakar does not object. In view of the no objection leave granted to amend. Ms. Kajal Singh states that the amendment will be carried out forthwith. Permission granted.

3. This Petition under Section 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita (for short 'BNSS') is preferred by the Petitioner seeking the quashing of the FIR bearing No. 125 of 2023 ("FIR") registered with the Kopri Police Station, Thane, for the offences punishable under Section 354 of Bhartiya Nyaya Sanhita ('BNS') and Sections 8, 10, and 12 of Protection of Children from Sexual Offences Act 2012 ('POCSO') and the Charge sheet now registered as Special Case No. 8 of 2024, pending on the file of the Sessions Court, Thane, arising out of the said FIR.

4. The victim in the present crime was 11 years and 8 months old at the time of the incident. The complaint lodged by Respondent No. 2 alleges that the Petitioner violated the victim's

rights and sexually assaulted her. The victim's statement was recorded. In her statement, the victim has narrated the entire incident, particularly in paragraphs Nos. 14 and 15. The statement details how the Petitioner is alleged to have sexually assaulted the victim. The Petitioner is the victim's stepfather. The complaint was lodged by the victim's maternal grandmother.

5. Ms. Kajal Singh submits that the alleged incident occurred on 9th April, 2023, whereas the FIR was registered on 8th July, 2023, resulting in a delay of almost three months. She submits that the complaint was not filed by the mother but by the maternal grandmother, which, according to her, raises a doubt as to why the victim did not complain to her mother. She submits that the Petitioner was enlarged on Anticipatory Bail, and the observations of the mother of the victim and the Petitioner regarding matrimonial discord are recorded therein. She points to a witness's statement and, by comparing it with the victim's statement, finds contradictions. Based on the said submissions, she prays for the quashing of the FIR.

6. Mr. Sukanta Karmakar, learned APP for the State, submits that the victim's statement clearly implicates the Petitioner in the offence charged against him, and all the ingredients required to proceed against the Applicant under Section 354 of BNS and Sections 8, 10, and 12 of POCSO are made out in the complaint and the statement. He submits that it is immaterial who reports the commission of the offence, as long as a cognizable offence is disclosed in the information. He submits that, given the fact that the Petitioner is the stepfather of the victim, there is no occasion to doubt the victim's complaint to her grandmother. He submits that the delay is not fatal to the case. He submits that the petition be dismissed with costs.

7. Perused the records with the assistance of the learned advocates.

8. In matters relating to the registration or non-registration of a First Information Report (FIR), the only requirement is that the information provided to the Police must disclose the commission of a cognizable offence. The Hon'ble Supreme Court in the case of Lalita Kumari Vs. Government of Uttar Pradesh and Ors¹ has crystallized the law on the registration

¹ 2014 (2) SCC 1

of an FIR and the situations/cases in which a preliminary inquiry is permissible, as also the safeguards to be followed in such cases.

9. The allegations in the FIR, the evidence collected in support of the same, and, more importantly, the victim's statement recorded during the course of the investigation establish the ingredients of the offences under Section 354 of the BNS and Sections 8, 10, and 12 of POCSO, for which the Petitioner is charged. The victim's statement, recorded on 13th July 2023, provides specific details of how she was subjected to sexual assault by the Petitioner, her stepfather. The material on record, prima facie, is sufficient to proceed against the Petitioner in respect of the offences charged.

10. The submissions and contentions of Ms. Kajal Singh, learned Advocate for the Petitioner, are in the nature of a defence for the accused Petitioner. The defence of an accused, even if it appears plausible, cannot be taken into account in the exercise of extraordinary jurisdiction or under section 528 of BNSS.

11. The Hon'ble Supreme Court in the case of Muskan Vs.

Ishaan Khan (Sataniya)² has held that at the stage of Section 482 of Cr. P. C., a mini trial is not permissible.

“22. On the aspect of the powers of the Courts under Section 482 of the Cr. P.C., it is settled that at the stage of quashing, the Court is not required to conduct a mini trial. Thus, the jurisdiction under Section 482 of the Cr. P.C. with respect to quashing is somewhat limited as the Court has to only consider whether any sufficient material is available to proceed against the accused or not. If sufficient material is available, the power under Section 482 should not be exercised”

12. In view of the above and the material available on record, particularly the minor victim’s statement, no case is made out to entertain this petition.

13. This Petition is therefore dismissed. There shall be no order as to costs.

(ASHWIN D. BHOBE, J.)

2 2025 SCC Online SC 2355