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IN THE JUDICATURE OF HIGH COURT AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. NO. 189 OF 2026

Prasad Kashinath Bade

Versus

The State of Maharashtra

VAISHALI
ANIL
TIKAM

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Mr. Abhijeet Desai a/w. Mohini R. a/w. Karan Gajra a/w. Sanchita Sontakke, Daksha Punghera a/w. Vijay Singh a/w. Shaik Gufrana Anjum a/w. Deenesh Ramrakhiani i/by Desai Legal LLP, Advocates for Applicant.

Mr. S.R. Agarkar, APP for Respondent-State.

Mr. Harshad Sathe a/w. Saurabh Butala, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th JULY, 2026.

P.C. :

1. The challenge in this application is to the order dated 12/02/2020 below Exhibit 23 in Spl. Case No. 859/2020 passed by the Learned Special Court, Mumbai whereby the Learned Special Judge has rejected the discharge application of the Applicant.

2. It is prosecution's case that on 12/02/2020 at 5:00 pm when the victim was returning home, the Applicant followed her. He stopped her and abused her in filthy language in hindi and thereafter, slapped across her face causing her injury. He uttered the words "Ae randi kidher ja rahi ha? mere bare mein kya bolti hai tu ladikiyonko?" The FIR was registered after the complaint of victim and chargesheet under Section

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354-D, 509, 323 of Indian Penal Code (for short 'IPC') and under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO') is registered against the Applicant.

3. It is contention of learned counsel for the Applicant that the Applicant is 19 years old and he is a student. He has no antecedents. The incident occurred as a result of some childish fight between them and he confronted the victim about it, asking her what she said against him in the school. There was no sexual intent of the Applicant before committing the said offence. But, this fact is not considered by the learned Special Judge and has passed impugned order. Learned counsel further submitted that no ingredients of Section 12 of POCSO Act are attracted in the complaint and requested to allow the application. He relied on the following judgments:-

- (i) **Mani @ Subramaniam vs. State Rep. By The Deputy Superintendent of Police¹**
- (ii) **Ajay Prasad vs. State NCT of Delhi²**
- (iii) **State of Uttar Pradesh vs. Anurudh and Another³**
- (iv) **The State Govt of NCT of Delhi vs. Mahinder Singh Kataria and Ors.⁴**

4. It is contention of learned APP along with learned counsel for Respondent No.2 that there are specific allegations against the Applicant in the FIR that he was following the victim who is 17 years old. Thereafter,

¹ SLP (Cri.) No. 4516 of 2025 dated 17/07/2026.

² 2026 SCC OnLine SC 40

³ In Cri. Revn P. 774/2017 & Cri. M.A. 19049/2017 dated 13/09/2023

⁴ Judgment of this Court of Nagpur Bench in Criminal Application (APL) No. 225 of 2026 decided on 09/03/2026.

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he abused her in filthy language and slapped across her face. It shows that he had sexual intention and with that intention, he outraged the modesty of the victim. The Learned Special Judge has passed well reasoned order. No interference is required. Learned APP further submitted that Section 12 of POCSO Act is attracted against the Applicant as he had sexual intention while committing the offence and requested to reject the application. Learned counsel for Respondent No.2 relies upon the judgment viz. **Bhushan s/o. Vikasrao Palwe vs. State of Maharashtra** ⁵

5. I have heard all learned counsel. Perused the impugned order. The allegations against the Applicant are that he followed the victim and abused her in filthy language in hindi and slapped her. Admittedly, Section 354-D, 509, 323 of IPC is attracted by the act of the Applicant. The question remains whether Section 12 of POCSO Act is applicable or not. Section 11 of POCSO Act defines sexual harassment of a child and Section 12 describes the punishment for it. Section 11 specifically states that a person is said to commit sexual harassment upon a child, when such person exhibits sexual intent towards the child. In the present case, it appears that Applicant was angry with the behaviour of victim in the school and he wanted to confront the victim about the said act and on that count, the incident took place. So from the incident, it does not appear

⁵ Judgment of this Court at Bombay- Nagpur Bench in Criminal Application (APL) No. 225 of 2026 dated 09/03/2026.

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that the Applicant had sexual intent as described in Section 12 of the POCSO Act. I have gone through the case laws cited by learned counsel for the Respondent. The facts of the cited case and present case are different hence, not applicable. No case is made out against the Applicant under Section 12 of POCSO Act and I pass following order.

ORDER

(i) Criminal Revision Application is partly allowed. The Applicant is discharged under Section 12 of POCSO Act. The Applicant shall try under provisions of Indian Penal Code.

(ii) The Trial Court shall not be influenced by the observations made by this Court and shall decide the matter on its own merits.

(SHIVKUMAR DIGE, J.)