



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

CRIMINAL WRIT PETITION NO.638 OF 2026

PETITIONER :- Sanjay S/o Vitthalrao Pande, Aged about 60 years, Occ. Teacher, R/o 63 Kamgarnagar, Nagpur

..VERSUS..

RESPONDENTS :- 1) State of Maharashtra, Through Police Station Officer, Sakkardara, Dist. Nagpur.
2) Victim XYZ in Crime No.142/2023 through PSO, PS, Sakkardara, Dist. Nagpur.

Mr. Aniruddha Jaltare, Advocate for Petitioner.
Mrs. S.V. Kolhe, A.P.P. for Respondent/State.
Ms. Sonali D. Choudhari, Advocate for Respondent No.2 (Appointed).

CORAM : MEHROZ K. PATHAN, J.

DATE OF RESERVING THE JUDGMENT: 01.10.2026

DATE OF PRONOUNCING THE JUDGMENT: 13.10.2026

JUDGMENT :

1. Heard.

2. **Rule.** Rule is made returnable forthwith. Heard finally with consent of learned counsel for the respective parties.

3. The petitioner has approached this Court challenging the order below Exh.94 dated 24.07.2026 passed by the learned Additional Sessions Judge-01, Nagpur, whereby the application for

local inspection of the spot of incident came to be rejected on the denial of such opportunity to the petitioner may result in miscarriage of justice and is liable to be quashed and set aside.

4. The learned counsel for the petitioner, Mr. Jaltare, submits that the aforesaid application was filed on behalf of the accused with the intention of examining whether, in all probabilities, such an incident could have taken place at the spot alleged by the prosecution. The learned counsel further submits that the applicant/accused had made this application with an intention to explore all the opportunity of defending himself in the best possible manner. There are serious lacunas in mentioning of the spot in the spot panchanama and the aforesaid discrepancies could be ascertained by the Court only after the trial Court visits the spot by exercising power under Section 310 of the Cr.P.C.

5. Mr. Jaltare further submits that the offence provides for punishment which may extend to life imprisonment, therefore, necessity of a fair trial includes affording a fair opportunity to the accused to defend himself. The aforesaid application is one such opportunity which the petitioner seeks to avail while being prosecuted for the offence of sexual assault committed upon a minor girl. The accused is charged with Section 376 of the IPC and

Section 4, 6 and 21 of the POCSO Act. The denial of such opportunity to the petitioner may result in a miscarriage of justice. The impugned order is therefore liable to be quashed aside.

6. The learned counsel, Mr. Jaltare, further submits that the spot is allegedly situated inside the laboratory, and as such, the discrepancies in the spot panchanama could be noticed only if the learned trial Court were to visit the spot. The impugned order is therefore passed in ignorance of such a vital aspect of the matter and hence needs to be quashed and set aside.

7. As against this, the learned A.P.P. as well as the learned appointed counsel, Ms. Sonali Choudhari for the victim opposed the said request made by the petitioner. It is submitted that the prosecution case is based on a report lodged by the mother of the victim alleging exploitation of the minor victim girl by the petitioner, as the victim was subjected to sexual assault by the applicant on 10.12.2022 in the laboratory of the school. The child suffering from mild intellectual disability was subjected to sexual intercourse by the petitioner taking advantage of her age and intellectual disability. The first informant has also mentioned an incident dated 05.04.2023, wherein the complainant claims to have been sexually assaulted again by the petitioner

8. The learned A.P.P. further submits that the investigating officer had already visited the spot and prepared a spot panchanama wherein the detailed spot is mentioned. The prosecution witnesses are already examined and subjected to cross-examination by the accused. The application is moved at a belated stage when substantial evidence is already over and due to considerable time having elapsed, the spot may not be representing the same condition as it was on the date of alleged incident. Hence, no fruitful purpose would be served by allowing such application to inspect the location and hence, the application needs to be rejected and was rightly rejected by the learned trial Court.

9. I have gone through the First Information Report and the chargesheet filed by the prosecution and also gone through the testimony of the witnesses examined by the prosecution and also gone through the application filed by the petitioner and the impugned order dated 24.07.2026. Section 310 of the Cr.P.C. reads as under :-

“310. Local inspection.—

(1) Any Judge or Magistrate may, at any stage of any inquiry, trial or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, or any other place which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such inquiry or trial, and shall without unnecessary delay record a memorandum of any relevant facts observed at such inspection.

(2) Such memorandum shall form part of the record of the case and if the prosecutor, complainant or accused or any other party to the case, so desires, a copy of the memorandum shall be furnished to him free of cost."

10. The perusal of the aforesaid section would show that any Judge or Magistrate at any stage of inquiry may visit a spot where the offence is alleged to have been committed "**which it is in his opinion necessary to view for the purpose of properly appreciating the evidence given at such an inquiry or trial.**"

11. The perusal of the record shows that seven witnesses have already been examined by the prosecution and prosecution has led the substantial evidence in the aforesaid crime. The only reason stated in the application for making an inspection on provided under Section 310 of the Cr.P.C. is that the alleged incident was not possible because of the size and location of the laboratory. The aforesaid objection raised by the petitioner is a probable defence which can be appreciated while the trial Court evaluates the testimony of the concerned witness along with their cross-examination by defence. The trial Court, which had taken note of the testimony of the seven witnesses already examined and upon perusal of the chargesheet, was not satisfied that a case for inspection of the site was made out. The provision of Section 310 of

the Cr.P.C. clearly vests discretion in the trial Court to visit such place, **if found necessary**, after giving notice to all the parties concerned. The local inspection cannot be undertaken only with an intention to counter the spot panchanama prepared by the prosecution. The lacunas, if any, in the prosecution case and the spot panchanama can very well be assailed during the final evaluation of testimony of the witness PW-2, spot panchas and investigating officer.

12. After commencement of trial, the prosecution has examined seven witnesses till date. During the trial, the prosecution has examined PW-5 Kunal Khare in whose presence the spot inspection and panchnama was prepared by the Investigating Officer. He specifically deposed the situation of Science Laboratory i.e. spot of incident in his examination-in-chief. So also he was cross-examined by the counsel for petitioner in length. Thus, the evidence can be properly appreciated by the trial Court even without spot inspection.

13. It is further pertinent to note here that, the offence occurred in the year 2022-2023. The chargesheet is filed in the year 2023. The trial was fixed for hearing before charge from period from 07.08.2023 to 20.10.2023. The learned trial Court framed

charge on 30.10.2023. The present application is filed on 25.06.2026. The submission that the application is filed after a considerable time with an ulterior motive to prolong the trial appears to be probable.

14. The record shows that the spot panch, Kunal Khare was examined by the prosecution. The applicant has also cross-examined him on the point of the size and location of the spot panchanama. The victim was also cross-examined by the applicant on the point of size and location of the laboratory where the incident has allegedly taken place. Thus there is substantial evidence already brought on record by the prosecution as well as the defence which is sufficient enough for the trial Court to draw its own inferences and appreciate the same. The refusal of the trial Court to exercise the discretion does not appear to be suffering from any material infirmity.

15. The single bench of the Bombay High Court in the case of *State of Maharashtra ..vs. Dayanand Tukaram Raut and Ors*, reported in 1998 ALL MR (Cri) 312, has observed thus :-

“7. From reading of the section 310 of Criminal Procedure Code it would be clear that the said provision empowers the Judicial Officer to take local inspection in order to be able to properly appreciate the evidence given at the time of the inquiry or trial. It is not disputed that the trial has not commenced. This is an enabling provision which empowers the Court to have local inspection of the property, particularly immovable property, which cannot be brought before the Court and the object of the same is to enable the Court to

appreciate properly the evidence led before it. The said provision cannot be used by the prosecuting agency for the purpose of proving its case. The property involved is movable which can very well be brought before the Court. Secondly, the Court must feel the need to have inspection of the property in order to be able to appreciate the evidence properly. Here the prosecuting agency has moved in the matter against the trial Court declining to have local inspection as if the duty was cast on the trial Court to take local inspection when the application was made in that behalf by the prosecuting agency.”

16. Thus, it appears that the learned trial Court has rightly rejected the application for inspection. The local inspection of a spot is not a right of the accused or the prosecution and it is for the learned trial Court to decide whether the said inspection is necessary in the facts, circumstances and evidence brought on the face of record. The said application cannot be allowed merely on an askance.

17. I do not see any error apparent on the face of the record which would call for interference of this Court under Article 226 of the Constitution of India. The impugned order rejecting the application under Section 310 of the Cr.P.C. does not warrant any interference. The writ petition is devoid of substance and merits and is hereby **dismissed**.

Rule is discharged.

(MEHROZ K. PATHAN, J.)

C.L. Dhakate