

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 4983 OF 2021**

Sunita W/o Mahindra Khandaskar

...Petitioner

Versus

The State Of Maharashtra

...Respondent

Mr. A. M. Saraogi Advocate for Petitioner.

Mr. S. S. Hulke, APP for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 16th FEBRUARY, 2023.**

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P.C.:-

1. Perusal of Petition and arguments advance by learned counsel for Petitioner clearly indicates that, the husband of Petitioner namely Mahindra Khandaskar intends to establish his defence in a probable trial arising out of C.R. No.28 of 2021 registered with Vikroli Police Station, Mumbai, wherein he is an accused by way of present Petition.

2. It is the settled position of law that, the defence of an accused in prospective trial cannot be adjudicated in Writ Petition under Article 226 of the Constitution of India.

3. In view thereof, Mr. Saraogi, learned Advocate on instructions, seeks leave to withdraw present Petition with liberty to put-forth the defence of the accused namely Mahindra Khandaskar before the trial Court in C.R. No.

28 of 2021 registered with Vikroli Police Station, Mumbai by leading evidence in that behalf.

Leave and liberty granted.

4. Petition is disposed off as withdrawn with aforesaid liberty.

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)