

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.32 OF 2024

SHABNOOR
AYUB
PATHAN

Digitally signed by
SHABNOOR AYUB
PATHAN
Date: 2025.07.17
17:30:08 +0530

XXX & Anr.

... Applicants

V/s.

State of Maharashtra

... Respondent

Mr. Reena Prajapati a/w Bhagyashri Ranade for the applicant.

Mrs. Rajashree V. Newton, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 17, 2025

P.C.:

1. The essential challenge raised in the present application in relation to the validity of the impugned order, on the ground that the offence involved falls under the Protection of Children from Sexual Offences (POCSO) Act, and no notice was issued to the victim.

2. However, the legality and validity of the said impugned order cannot be examined by this Court in the exercise of its statutory jurisdiction under Section 439 of the Code of Criminal Procedure, 1973. The appropriate remedy available to the applicant is to invoke the jurisdiction of this Court either under Section 482 of the Cr.PC or under Article 227 of the Constitution of India, seeking judicial review of the impugned order. Such judicial review is not available under Section 439 of the Cr.PC.

3. Hence, keeping all questions raised by the applicant open to be agitated in appropriately instituted the proceeding, the present application stands disposed of.

(AMIT BORKAR, J.)