

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.83 OF 2025

XYZ

.. Applicant

Versus

The State of Maharashtra and Anr.

.. Respondents

.....

- Mr. Ganesh Gupta a/w. Mr. Madan Khansole and Ms. Priyanka Rathod, Advocates i/by GG Legal Associates for Applicant.
- Ms. Savita M. Yadav, APP for Respondent No.1.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 07, 2025

P.C.:

1. Heard Mr. Gupta, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent No.1.

2. Challenge is to order dated 09.05.2024 appended at page No.114 of the Application. By that order Respondent No.2 was released on bail by Trial Court.

3. *Prima facie* reading of the order dated after hearing Mr. Gupta it is seen that said order is directly in the teeth of statutory provisions namely Rules 4(13) and 4(15) of the POCSO Rules which *prima facie* recognises a statutory right and entitlement to the assistance and representation by legal counsel for the family or the guardian of the of child and entitlement to be present and participate in proceedings in accordance with said provisions.

4. Mr. Gupta has placed relevance on two decisions of Supreme Court in the case of *X Vs. State of Uttar Pradesh and Anr.*¹ and another decision of Division Bench of this Court in the case of *Arjun Kishanrao Malge Vs. State of Maharashtra*² in support of his submissions seeking cancellation of order dated 09.05.2024.

5. In view of the above, an arguable case has been made out for issuance of notice.

6. Issue notice to Respondent No.2. Humdast permitted. In addition to Court's notice, Applicant is directed to serve a copy of this order and copy of the Application on Respondent No.2 and inform it about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondent is directed to file Affidavit-in-Reply to the Bail Application on or before the next date.

7. Learned APP waives service on behalf of Respondent No.1 - State.

8. Stand over to 15th April, 2025. To be placed under the caption '**For Compliance**'.

H. H. SAWANT

[MILIND N. JADHAV, J.]

1 Criminal Appeal No.5385 of 2024 (arising out of SLP (Crl.) No.5027 of 2024) decided on 13.12.2024.

2 Public Interest Litigation No.5 of 2021 decided on 08.04.2021.