

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.3318 OF 2025

Nikhil Paidoda Shinde

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Advait Anil Tamhankar, for the Petitioner, appointed by High Court Legal Services Authority, Mumbai.

Ms. Gauri S. Rao, APP, for the Respondent No.1-State.

Mr. Vijaysinha Navanat Ghadge, PSI, attached to Hadapsar Police Station, Pune, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 30th JUNE 2025

PC:-

1. Heard Mr. Tamhankar, learned Counsel, appointed by High Court Legal Services Authority, for the Petitioner and Ms. Rao, learned APP appearing for the Respondent No.1-State.

2. By the present Writ Petition filed under Article 227 of the Constitution of India the challenge is to the legality and validity of the order dated 6th March 2025 passed by the learned District Judge-6 & Additional Sessions Judge, Pune below Exhibit-88 in Special Case No.2 of 2021. The said Application has been filed by

the present Petitioner i.e. Accused No.1 for recall of PW.1 i.e. victim for conducting further cross-examination.

3. It is the contention of Mr. Tamhankar, learned Counsel appearing for the Petitioner that the Petitioner is seeking reexamination as certain points have come on record in the cross-examination of Accused Nos.2 to 5. He further submitted that a very relevant factor has come on record that in the High Court in Criminal Bail Application No.1443 of 2023 filed by the Accused No.5-Somnath Bhivaji Gaikwad, consent has been given for granting him bail by the victim and victim's father. He therefore, submitted that the Petitioner be allowed to further cross-examine the victim.

4. Perusal of the record shows that by the impugned order, permission is granted to reexamine the victim on the point of no objection given in the said Criminal Bail Application No.1443 of 2023 to grant bail to the Accused No.5 by the victim and victim's father.

5. As far as other contentions are concerned, it is submitted by the learned Trial Court that in said Application bearing Exhibit-88, the Petitioner has not pointed out points on which he wants to conduct reexamination.

6. Perusal of the record further shows that in the said Application bearing Exhibit-88 what is stated is that cross-examination has remained to be conducted on certain points. However, nothing is mentioned about the said points.

7. Perusal of the record further shows that in Criminal Bail Application No.1443 of 2023, victim and victim's father remained present in the High Court and gave consent for granting bail to the Accused No.5. However, this Court has rejected the said Criminal Bail Application No.1443 of 2023 by order dated 18th April 2024. This Court while rejecting the said Bail Application has observed in paragraph No.18 as follows:

“18. Although the Bail Application is disposed of, the learned Trial Court is requested to file periodical reports before this Court after every three months to ensure that the trial is concluded expeditiously and in any event within a period of 9 months from today. This direction is issued as the case is of gang

rape and the Accused persons are attempting to influence the victim and the witnesses and are also tampering with the evidence.”

(Emphasis added)

8. Thus, in the order dated 18th April 2024 passed in Criminal Bail Application No.1443 of 2023 it has been observed that as the case is of gang rape and the Accused persons are attempting to influence the victim and witnesses and also tampering with the evidence, the trial in Sessions Case No.2 of 2021 be concluded expeditiously.

9. The learned Trial Court by partly allowing the Application bearing Exhibit-88 has granted leave to the Petitioner to conduct cross- examination only on the aspect of no objection given by the victim and victim's father for granting bail to co-Accused- Somnath Bhivaji Gaikwad in said Criminal Bail Application No.1443 of 2023.

10. Accordingly, no interference is warranted in the impugned order. The Writ Petition is dismissed, however, with no order as to costs.

[MADHAV J. JAMDAR, J.]