

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.58 OF 2025**

The State of Maharashtra ... Applicant
V/s.
Arshad Ishlaq Khan & Anr. ... Respondents

Ms. Sangeeta D. Shinde APP for the Applicant-State.
Ms. Jayashri Anawane API, Bhiwandi City police station present.

**CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.**

DATE : 3rd DECEMBER, 2025

P.C:-

- 1) The State has filed an Appeal against the Judgment and Order dated 12/09/2025 passed by the Special Judge (under POCSO Act) and Additional Sessions Judge-2, Bhiwandi, Thane in Special Case Child Protection No.1170 of 2023.
- 2) We have heard the learned A.P.P. Ms.Shinde and perused the impugned judgment.
- 3) The accused faced charge under Section 376-AB, 376 (2)(f)(j) of the Indian Penal Code and Section 4, 5(m)(n), 6, 9(m)(n) and 10 of the POCSO Act. In support of the case of prosecution, the victim herself along with her mother and sister were examined as the witnesses. Apart from this, PW.8 is the doctor, who medically examined the victim, after two days, also stepped into the witness box and specifically referred that on

examining the victim, noted that the Valva in the Labia Majora and Labia Minora were swollen, hymen was torn with laceration from 7 O'clock to 10 O'clock position.

Merely on the ground that some inconsistency had appeared through the evidence of the victim girl and her mother and sister, the learned Judge had acquitted the accused of the offences under the I.P.C. as well as the POCSO Act.

4) Since, we are satisfied that the learned Judge has failed to consider the medical evidence on record and if this so, if the sexual assault was established through the medical officer, and since we find that inconsistencies in the version of the witnesses did not materially affect the case of the prosecution, we deem it appropriate to grant leave to Appeal.

Leave to Appeal is granted under Section 419(3) of Bharatiya Nagarik Suraksha Sanhita, 2023 alongwith Rule 19 of Chapter XXVI of the Bombay High Court Appellate Side Rules, 1960.

5) Registry is directed to register the Appeal.

6) Issue notice to the Respondents by making it returnable on 13th January, 2026.

Call for Record and Proceedings.

(SHYAM C. CHANDAK, J.)

(BHARATI DANGRE, J.)