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

**CRIMINAL WRIT PETITION NO.1867 OF 2026**

Bhanubhai Gagalbhai Shah  
S/o Late Mr. Gagalbhai Shah : Petitioner.

Versus.

Preksha Mihir Shah and anr. : Respondents.

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Mr. Ali Abbas Delliwalla with Ms. Tripty M Kapadia i/by Joy  
Legal Consultants for the Petitioner.

Mr. V B Konde-Deshmukh, APP for the Respondent/State.

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**CORAM : ASHWIN D. BHOBE, J.**

**DATED : 10 APRIL 2026**

**PC:-**

1. At the outset, Mr. V. B. Konde-Deshmukh, learned APP for the Respondent/State, raises an objection to the maintainability of the present Petition, as the order impugned in this Petition and the subject matter of the proceedings are governed by the Protection of Women from Domestic Violence Act, 2005 (PwDV Act). He submits that the PwDV Act is a self-contained code and provides a statutory regime for appeal under Section 29. He further submits that, having an effective

statutory right of appeal, the Petitioner is not entitled to maintain this Petition. He further submits that no impelling circumstances are made out for invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India or under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. Faced with the said difficulty, Mr. Ali Abbas Dellivwalla, learned Advocate for the Petitioner, on instructions from the Petitioner, craves leave to withdraw this Petition with liberty to file an Appeal under Section 29 of the PwDV Act before the Sessions Court. However, he submits that, as the Petitioner is bona fide and in good faith pursuing the present Petition before this Court and is also a senior citizen, the time spent in this Petition, as well as the time spent in approaching this Court, may be condoned and the proposed Appeal may be considered on merits. He states that the appeal will be filed before the Sessions Court within three weeks from today.

3. Mr. V. B. Konde-Deshmukh, learned APP for the Respondent/State, submits that the Petitioner in the present case, being a senior citizen, the request made by Mr. Ali Abbas Dellivwalla, learned Advocate for the Petitioner, is fair and reasonable, as such, he does not oppose the said request.

4. In view of the statement made by Mr. Ali Abbas Dellivwalla, learned Advocate for the Petitioner, leave is granted to withdraw the present Writ Petition with liberty to

file an Appeal under Section 29 of the PwDV Act before the Sessions Court.

5. In the peculiar facts of this case, more so the Petitioner being a senior citizen (77 years of age) and the no objection of Mr. V. B. Konde-Deshmukh, learned APP, if the Petitioner files the Appeal under Section 29 of the PwDV Act against the impugned order before the Session Court having jurisdiction within three weeks from today, the same shall be considered on its own merits and in accordance with law, without insisting on an application for condonation of delay.

6. All contentions of the parties on merits are left open for consideration in the Appeal.

7. Criminal Writ Petition No.1867 of 2026 is disposed of as withdrawn.

**(ASHWIN D. BHOBE, J.)**