



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2053 OF 2023

Shri Prakash Kumar Rameshbhai Patel

Proprietor of Devika Bullion

Aged about 55 years, Occupation : Business

having address at 18th floor, 2nd

20 Devki Bhavan, Dhanji Street

Zaveri Bazar, Mumbadevi,

Mandvi, Mumbai-400 003

... Petitioner

Versus

1. State of Maharashtra

(Through PP Officer, High Court)

2. Superintendent of CGST & CX

Anti-Evasion, Mumbai South,

15th Floor, Air India Building,

Nariman Point, Mumbai-400 021

3. Principal Commissioner of CGST & CX,

Mumbai South, 13th & 15th Floor,

Air India Building, Nariman Point,

Mumbai-400 021

... Respondents

Mr. Sujit Sahoo for the Petitioner.

Mr. V. B. Konde Deshmukh, APP for the State.

Mr. Jitendra B. Mishra a/w. Mr. Satyaprakash Sharma and Mr. Ashutosh Mishra for Respondent nos. 2 and 3.

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

DATE : 28th JUNE 2023

ORAL ORDER (Per Revati Mohite Dere, J.)

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties taken up for final disposal. Learned APP waives notice on behalf of the Respondent-State. Mr. Jitendra Mishra waives notice on behalf of respondent nos. 2 and 3.
3. At the outset, learned counsel for the petitioner states that the petitioner is pressing only for prayer clause (d), only to the extent that the petitioner's statement be recorded in the presence of his Advocate i.e. at a visible but not audible distance, during his

interrogation. He further on instructions states that though the petitioner has prayed for permission for videography of the interrogation, at the petitioners cost, the petitioner is not pressing for the said relief.

4. Learned counsel for the petitioner relied on the decisions passed by this court in the case of *Kamlesh Kumar Mishra s/o. Brijabhooshan Mishra Vs. The State of Maharashtra & Another*¹, *Mayur Chavda s/o. Deepakbhai Chavda Vs. The State of Maharashtra & Another*² and *Manishbhai Narshibhai Talaviya and Another Vs. Union of India and Others*³

5. Learned Special Public Prosecutor appearing for the respondent nos. 2 and 3 state that the respondent nos. 2 and 3 have no objection to the presence of the petitioner's Advocate, at the time of recording of the petitioner's statement, provided that he is at a visible distance, but not at an audible distance.

1 Criminal Writ Petition No. 1313 of 2023

2 Criminal Writ Petition (St) No. 6697 of 2023

3 Criminal Writ Petition No. 649 of 2023

6. Considering the aforesaid and having regard to the orders annexed to the petition from 'Exhibit-G' to 'Exhibit-I', we allow the petition and, as such, permit the petitioner's Advocate to remain present at a visible, but not at an audible distance at the the time of recording of the petitioner's statement.

7. The Petition is accordingly allowed and, as such, disposed of. Rule is made absolute in the aforesaid terms.

8. All concerned to act on the authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.