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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(CRL) 227/2017

HITESH KUMAR

..... Petitioner

Through : Mr. V. V. Gautam, Adv,
versus

JOINT DIRECTOR D R I DELHI

ZONAL UNIT & ORS.

..... Respondents

Through : Mr. Amish Aggarwala and Mr. Satish
Aggarwala, Adv.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **17.03.2017**

CrI.M.A.1402/2017 (Exemption)

Allowed, subject to all just exceptions. Application is disposed of.

W.P.(CRL) 227/2017 & CrI.M.A.1401/2017

By this petition petitioner has prayed for quashing of investigation/inquiry initiated by respondent/DRI and summons issued to petitioner. Learned counsel for petitioner has contended that petitioner is not the importer. Petitioner was issued summons under Section 108 of the Customs Act ('the Act' for short). Petitioner appeared before the DRI officials. He was beaten black and blue and his statement was extracted, which he has already retracted. It is submitted that petitioner has been again issued summons to appear. Petitioner apprehends that he will again be

threatened and beaten and his statement would be extracted.

I am of the view that allegations of petitioner are not sufficient to quash the investigation/inquiry initiated by the respondents/DRI in relation to the breach of the Act. However, interest of petitioner can be safeguarded if presence of his counsel is permitted at the time of recording his statement. Similar directions have been issued in several matters including *Abhishek Agrawalla Vs. Commissioner of Customs*, 2016 (341) ELT 43 (Del). Vide order dated 24th January, 2017 passed in W.P.(Crl).222/2017 also the Bench of coordinate jurisdiction has passed a similar order.

Accordingly, it is ordered that in case petitioner is issued notice once again under Section 108 of the Act, he shall be entitled to be accompanied by his counsel, who shall remain present during the questioning of petitioner. The counsel shall, however, be seated and remain in a visible distance of petitioner and the officers, who are questioning the petitioner, but he shall not be in the hearing distance at the time of questioning.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

Dasti.

A.K. PATHAK, J.

MARCH 17, 2017/dk