

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3353 of 2019

Vijen Girishchandra Jhaveri .. Petitioner
Versus
Directorate of Revenue Intelligence
and ors .. Respondents

...

Mr.Pankaj Jain with Yogita U. Gogare i/b P.D. Jain & Co. for
the petitioners.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 1st JULY 2019

P.C:-

1 The petitioner, in this case, came to be arrested on 27th March 2019 by the Director of Revenue Intelligence. He was granted bail by the Sessions Court on 24th April 2019 in Bail Application No.917 of 2019.

2 The petitioner, therefore, has approached this Court for the relief to seek direction to the respondents to allow the presence of the petitioner's advocate at visible but not audible distance during investigation by the Officers of DRI in the subject case and further direction to the respondent to videograph the proceedings in terms of the decision of the Apex Court in *Rajinder Arora & ors Vs. Union of India & ors.*

3 As far as relief claimed in prayer clause (b) is concerned, petitioners are seeking direction similar or to the one issued by the Apex court in ***Vijay Sajani Vs. Union of India*** (Criminal M.P.No. 10117 of 2012) and ***Rajinder Arora Vs. Union of India and ors*** (WP (Cri) 389 of 2010) and permit the petitioner to have an Advocate at visible but not audible distance during their interrogation by the Officers of the DRI.

Learned counsel for the petitioner submits that he has served a copy on the DRI but he was informed by the learned counsel Shri Mishra who usually represents the DRI that he has not been authorized to appear in the said matter.

4 We have gone through the order passed by the Apex Court in ***Vijay Sajani vs. Union of India (supra)*** where the Apex Court had issued a similar direction as sought by the petitioner. We have also taken note of the decision of the Apex Court dated 24th February 2012 in Writ Petition (Crl) No.28 of 2012 in ***Birendra Pandey Vs. Union of India***. The Apex Court in the said case, after making reference to the Three Judges Bench in case of ***Poolpandi and ors Vs. Superintendent, Central Excise and Others (1992) 3 SCC 259*** and the subsequent judgment in case of ***Directorate of Revenue Intelligence Vs. Jugal Kishore Samra (2011) 12 SCC 362*** relied on the observations in the later two Bench judgment which had observed thus :-

“Taking a cue, therefore, from the direction made in D.K. Basu and having regard to the special facts and circumstances of the case, we deem it appropriate to direct that the interrogation of the respondent may be held within the sight of his advocate or any other person duly authorized by him. The advocate or the person authorized by the respondent may watch the proceedings from a distance or from beyond a glass partition but he will not be within the hearing distance and it will not be open to the respondent to have consultations with him in the course of the interrogation.”

The Apex Court also held that it had an occasion to deal with similar matters and have passed similar orders to the extent that the petitioner's counsel would be allowed to be present at the time of interrogation within visible distance though beyond hearing distance.

5 We do not find any reason refusing to grant similar relief to the petitioner. As far as video-graph is concerned in ***Rajendra Arora Vs. Union of India & Ors*** (Writ Petition (Civil) No.389 of 2010), the Department itself has assured that the recording of the statement and examination of the goods will be video-graphed. In such circumstances, we are inclined to grant relief prayed by the petitioner and we direct that the petitioner would be interrogated presence of an Advocate at a visible but not audible distance during investigation of the subject crime and the proceeding is directed to be video-graphed in terms of the order passed by the Apex Court in case of ***Rajinder Arora*** (supra).

6 Thus, Writ Petition is allowed in prayer clauses (a).

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)