

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**3 CRIMINAL WRIT PETITION NO.435 OF 2023  
ARUNA W/O. VISHWAS SHINDE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

Mrs. Rashmi S. Kulkarni, Advocate for the petitioner.  
Mrs. D.S. Jape, APP for the respondent/State.  
Mr. S.G. Ladda, Advocate for respondent Nos. 2 to 6.

**CORAM : KISHORE C. SANT, J.  
DATED : 28.03.2023**

**PC :-**

01. Though the office report shows that notice is not issued, however, respondent Nos.2 to 6 have already caused their appearance through learned Advocate Mr. Ladda. No notice is required.

02. Though the matter is appearing in the orders category, however, the respondents have already appeared and even filed their affidavit-in-reply, it is taken up for hearing.

03. This is a case where the Presiding Officer had decided to hear the defence first since a Special Public Prosecutor was not available on the day on which the matter was fixed, as given in detail, in order dated 20.03.2022. The respondents have fairly accepted that the prosecution needs to be heard first. He, however, submits that since now the defence lawyer has already opened his arguments, it should be continued and the prosecution may reply after the arguments of defence are over.

04. This Court finds that it is a normal rule to allow the prosecution to open a case first. This Court does not find any reason to give go-bye to the normal practice and rule. The prosecution in-fact had started with the arguments before earlier Presiding Officer. In view of the same, this Court asked as to when the Special Public Prosecutor would be available to argue the case. It is reported that he is scheduled to come on 05.04.2023.

05. In view of the matter, this petition can be disposed off by directing the learned Trial Court to start hearing of the case on 05.04.2023. It is made clear that the prosecution would continue the arguments till it is finished in successive sessions without any gap, so that defence can also sum up their arguments within time as the matter is already time bound and is to be decided before 20.04.2023.

06. In view of above, the criminal writ petition stands disposed off.

**[KISHORE C. SANT, J.]**