

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 752 OF 2022****WITH****INTERIM APPLICATION NO.309 OF 2023****WITH****INTERIM APPLICATION NO.308 OF 2023**

Ashish Hasmukhlal Bhavsar

...Petitioner

Versus

State Of Maharashtra

...Respondent

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None for Petitioner.

Mr. S. S. Hulke, APP for Respondent-State.

**CORAM : A. S. GADKARI AND  
PRAKASH D.NAIK, JJ.**

**DATE : 13<sup>th</sup> FEBRUARY, 2023.**

**P.C.:-**

1. Perusal of Petition would indicate that, the pleadings therein are in the form of defence of the Petitioner in the crime, wherein he is an accused.

It is the settled position of law that, the defence of the accused in crime cannot be tested/adjudicated in a Petition under Article 226 of the Constitution of India.

2. Petitioner is at liberty to file appropriate application before the trial Court for conducting Polygraph Test, if permissible under the law.

3. If such an application is filed by Petitioner, the trial Court is requested to decide the same as per provisions of law and the decisions in that behalf rendered by the Hon'ble Supreme Court.

4. According to us, present Petition is misconceived and is accordingly disposed off with aforesaid liberty.

**(PRAKASH D. NAIK, J.)**

**(A. S. GADKARI, J.)**