

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

WEDNESDAY, THE EIGHTH DAY OF JANUARY
TWO THOUSAND AND TWENTY FIVE

:PRESENT:

**THE HONOURABLE SRI JUSTICE K.LAKSHMAN
WRIT PETITION NO: 909 OF 2025**

Between:

Kalvakuntla Taraka Rama Rao, S/o K. Chandrashekar Rao

Petitioner

AND

1. The State of Telangana, Represented by its Principal Secretary, Home Department, Secretariat, Hyderabad.
2. The Superintendent of Police (CIU), ACB, CIU, Hyderabad, Road No. 12, Banjara Hills, MLA Colony, Hyderabad
3. The Deputy Superintendent of Police (CIU), ACB, CIU, Hyderabad, Road No. 12, Banjara Hills, MLA Colony, Hyderabad

Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction, particularly one in the nature of WRIT OF MANDAMUS, declaring the action of the respondents in not allowing the presence of the Advocate all along with the petitioner during the investigation proposed to be conducted pursuant to the notices dated 06. 01. 2025 issued by the 3rd respondent for the purpose of investigation in FIR No. 12/RCO-CIU- ACB- 2024 on the file of Police station, Anti Corruption Bureau, CIU, Hyderabad on 09. 01. 2025 or any other subsequent dates as and when the petitioner is called to the office of the respondents for investigation, as arbitrary, illegal and violative of Art. 21 and 22 of the Constitution of India and the law laid down by the Hon'ble Supreme Court of India, consequently direct the respondents to permit the petitioner to have the presence of the Advocate with the petitioner during the investigation in FIR No. 12/RCO- CIU- ACB- 2024 on the file of Police station, Anti Corruption Bureau, CIU, Hyderabad;

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Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to direct the respondents to permit the petitioner to have the presence of the Advocate during the investigation in FIR No. 12/RCO- CIU- ACB- 2024 on the file of Police station, Anti Corruption Bureau, CIU, Hyderabad on 09. 01. 2025 or any other subsequent dates as and when the petitioner is called to the office of the respondents for investigation, in the interests of justice, pending disposal of WP 909 of 2025, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri. A PRABHAKAR RAO Advocate

for the Petitioner, GP FOR HOME for the Respondent No.1, SRI T. BALA MOHAN REDDY for respondent Nos.2 & 3, the Court made the following.

ORDER:

This writ petition is filed to declare the action of the respondents in not allowing presence of Advocate all along with the petitioner during investigation proposed to be conducted pursuant to the notice dated 06.01.2025 issued by the 3rd respondent for the purpose of investigation in FIR No.12/RCO-CIU-ACB-2024 on the file of the Police Station, Anti Corruption Bureau, CIU, Hyderabad. ✓

The petitioner is accused No.1 in the said crime. The offences alleged against him are punishable under Sections 409 r/w 120-B of the Indian Penal Code (hereinafter 'IPC') and Sections 13 (1) (a) r/w 13(2) of the Prevention of Corruption Act, 1988 (hereinafter 'PCA'). ✓

As part of investigation, vide notice dated 06.01.2025, 3rd respondent requested the petitioner to appear before him on 09.01.2025 at 10.00A.M. at the office of ACB, Road No.12, Banjara Hills, Hyderabad, for the purpose of investigation and to furnish information pertaining to the said case. ✓

The petitioner herein is seeking assistance of an Advocate along with him throughout investigation. Sri A.Prabhakar Rao, learned counsel for the petitioner places reliance on the principle laid down by the other High Courts which are as follows:-

1. Mahender Kumar Kundia v. Union of India¹
2. Kalpesh Gevarchand Jain v. Union of India
through the Secretary²
3. Jignesh Kishorbhai Bhajiawala v. State of
Gujarat³

and also on the order dated 17.03.2023 in I.A.No.192 of 2023 in W.P.No.6643 of 2023 (Y.S. Avinash Reddy's case) of this Court.

In Jignesh Kishorbhai Bhajiawala (supra), the offences are under provisions of Prevention of Money Laundering Act, 2002. the petitioner therein sought for assistance of an Advocate. In Paragraph No.39, Gujarat High Court at Ahmedabad categorically held that although the applicant cannot claim the relief, as a matter of right, yet as of abundant caution and prudence, the Gujarat High Court permitted the Advocate of the

¹ (2015) 15 SCC 419

² 2023 SCC OnLine Bom 716

³ 2017 CrILJ 1760

choice of the petitioner therein, to remain present within visible distance, but beyond the hearing range.

In the order dated 17.03.2023 in I.A.No.192 of 2023 in W.P.No.6643 of 2023, this Court, on consideration of the several aspects declined the presence of the Advocate along with the petitioner therein while conducting investigation. However, considering the peculiar facts and circumstances of the said case and also considering the seriousness of the allegations made by the petitioner therein against the Investigating Officer - the IPS Officer of CBI, this Court directed the Investigating Officer to examine the petitioner therein within the sight of his Advocate. This Court also clarified that the Advocate cannot be permitted to accompany the petitioner therein in the examination room. This Court also directed the Investigating Officer to audio and video record of the examination of the petitioner therein under Section 161 of CrPC.

In the light of the same, this Court is not inclined to permit the petitioner to take the Advocate along with him during the investigation. He is not entitled for the said relief, as a matter of right.

It is relevant to note that vide letter dated 06.01.2025, the petitioner did not even make a request to the 3rd respondent/Investigating Officer to permit him to take assistance of Advocate of his choice along with him throughout the Investigation.

However, considering the fact that the petitioner herein is a former Minister and present M.L.A. and also considering the sensitiveness of the matter, this Court is of the view that though the petitioner seeks the said relief, as a matter of right, yet as of abundant caution and prudence, this Court is inclined to permit the Advocate of petitioner's choice i.e. Sri J. Ramachandra Rao, Senior Counsel (suggested by Sri A.Prabhakar Rao learned counsel for the petitioner) to remain present within visible distance but beyond the hearing range.

Sri Tera Rajinikanth Reddy, learned Addl. Advocate General, filed diagram of the place of investigation and would submit that Sri J.Ramachandra Rao, learned Senior Advocate can sit in the library which is opposite to the room in which the Investigating Officer is conducting investigation. There is a glass window through which the learned Senior Advocate can observe the proceedings.

In the said diagram, there is also a room adjacent to the examination room. According to the learned Addl. Advocate General, there are files etc. and Sri J.Ramachandra Rao, learned Advocate cannot sit comfortably in the said room. He has produced photograph in proof of the same.

In the light of the same, permission is granted to the petitioner to take assistance of Sri J.Ramachandra Rao, learned Senior Counsel, to sit in the Library opposite to the examination room and observe the proceedings. However, 3rd respondent/Investigating Officer shall ensure visibility of the petitioner to Sri J.Ramachandra Rao, learned Senior Counsel and learned Senior Counsel to the petitioner. However, learned Senior Counsel shall not interfere with investigation directly or indirectly including making signs, gestures etc. He cannot carry any electronic gadget including mobile phone.

List on 20.01.2025.

SD/-S.MALLIKARJUNA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Principal Secretary, Home Department, State of Telangana, Secretariat, Hyderabad.
2. The Superintendent of Police (CIU), ACB, CIU, Hyderabad, Road No. 12, Banjara Hills, MLA Colony, Hyderabad
3. The Deputy Superintendent of Police (CIU), ACB, CIU, Hyderabad, Road No. 12, Banjara Hills, MLA Colony, Hyderabad
(1 to 3 by RPAD)
4. One CC to SRI. A PRABHAKAR RAO Advocate [OPUC]
5. Two CCs to GP FOR HOME. High Court at Hyderabad. [OUT]
6. One spare copy

HIGH COURT

KL, J

DATED:08/01/2025

LIST ON 20.01.2025

ORDER

WP.No.909 of 2025



DIRECTION