

KABC010277172024



IN THE COURT OF LVIII ADDL. CITY CIVIL &
SESSIONS JUDGE, BENGALURU CITY (CCH-59)

DATED THIS THE 17th DAY OF AUGUST, 2026.

PRESENT:

Smt.Sujata.M.Sambrani, B.Com. LL.B.,
LVIII Addl. City Civil & Sessions Judge,
Bengaluru.

S.C.No.1319/2024

Complainant:-

State of Karnataka,
By **Kamakshipalya** Police Station,
Bengaluru.

[By the learned Public Prosecutor]

- VS -

Accused persons:-

Smt.Pavithra Gowda and others.

(By Sri.SB, Adv. for A1 & A12,
Sri.SS. Adv. for A2,
Sri.RR, Adv. for A4, A6 to A9, A13,
A15 to A17,
Sri.KRS, Adv. for A5,
Sri.SN, Adv. for A10,

Sri.MGS, Adv. for A11,
Sri.RS, Adv. for A14)

Applicants:-

A2 Darshan S.

A11 Nagaraju.R.

A6 Jagadeesh @ Jagga.

A7 Anukumar @ Anu.

**Order on application dated 22.05.2026 filed by A2 & A11
U/Sec.309 r/w Sec.273 of Cr.PC and Memo dated
12.08.2026 filed by the counsel for A6 & A7**

The learned counsel for the accused Nos.2 & 11 has filed application under Section 309 r/w Sec.273 of Cr.PC seeking physical production of the accused persons before the Court, in the interest of justice. This application was filed on 22.05.2026, but pressed for hearing on 12.08.2026. Hence, the application is taken up for consideration.

2. The learned Spl. Public Prosecutor has filed objections.

3. At the time of hearing this application, the learned counsel for accused Nos.6 & 7 filed a memo seeking physical production of accused Nos.6 & 7.

4. Heard the Learned Special Public Prosecutor Sri.Prasanna Kumar.P and Learned Designated Senior Counsel Sri.Hashmath Pasha for Accused No.2. Also heard the Learned counsel for Accused Nos.6 and 7. Perused the records. Learned counsel for accused No.11 has adopted the arguments of learned counsel for accused No.2.

5. In view of the rival submissions, the following points arise for my consideration:

1. Whether the physical production of the accused before this Court is necessary during the course of the trial ?

2. What Order ?

6. My findings on the above said points are as under:

Point No.1 : **In the Negative.**

Point No.2 : As per final order,
for the following:

REASONS

7. **POINT No.1:** During the hearing on this application, the accused No.12 has not pressed the application. Therefore, now the application with respect to accused Nos.2, 6, 7 and 11 is taken up for consideration.

8. In the application filed by the learned counsel for the accused Nos.2 and 11, it is submitted that, the case is

presently posted for trial, and the prosecution witnesses are being examined regularly pursuant to the observations made by the Hon'ble Supreme Court in W.P. (Crl.) No. 159/2026 dated 15.05.2026. The Accused Nos.2, 11, and 12 are presently lodged in Central Prison, Bengaluru and are attending the proceedings through video conferencing facilities. Due to recurring technical difficulties and connectivity issues in the video conferencing system, the accused persons are unable to follow the proceedings before this Hon'ble Court effectively. The interruptions in audio and video transmission have seriously hampered the accused's ability to understand the evidence being recorded and to instruct their advocates properly during the course of trial. Though advocate meetings are being facilitated in prison, adequate and meaningful consultation is not possible on account of the limited time provided for interaction, particularly having regard to the traveling time to the prison, volume of evidence being recorded on a day today basis and the complexity of the present case involving numerous witnesses and documents coupled with the tedious process involved in entry and exit of Advocates at Central prison, Bengaluru. The effective right of defence and the right to fair trial necessarily include continuous and meaningful consultation between the accused and his counsel during the course of the trial. In the absence of proper interaction and

immediate instructions from the accused, serious prejudice would be caused to the defence of the Accused.

9. It is further submitted that, the present application is being filed only to ensure effective participation of the accused in the proceedings and to avoid any prejudice being caused during cross-examination of witnesses. The prosecution has submitted to the Hon'ble Apex Court in W.P. (Crl.) No. 159/2026, the prosecution intends to examine 150 prosecution witnesses out of 272. Therefore, the accused persons have to consult their advocate regarding the conduct of the trial. Even the object of Section 273 of the Code of Criminal Procedure is that the evidence has to be taken in the presence of the accused. Therefore, this application deserves to be allowed.

10. It is further submitted that, the prosecution may contend that if the Accused No.2 is produced before this Court, it will be difficult to arrange and provide proper security. But necessary directions may be issued to the State (police) to provide proper and adequate security at the time of physical production of the accused. In the circumstances, it is just and necessary that the Accused No.2 & 11 be physically produced before this Court during the course of trial proceedings to enable proper consultation with their advocates and to ensure effective conduct of trial. Hence, prayed to:

- a) Direct the prison authorities to physically produce Accused No. 2 & 11 before this Court during the course of trial proceedings; and
- b) Issue necessary directions to the concerned jurisdictional police to facilitate sufficient and proper security at the time of physical production of the accused persons and pass such other order/s as this Hon'ble Court deems fit in the interest of justice and equity.

11. In the memo filed by the learned counsel for the accused Nos.6 & 7, it is submitted that, they are facing trial in the instant case and it is of utmost importance that they provide necessary information and instructions to their counsel on record in order to defend them during the course of trial and prays to pass an order for physical production of accused Nos.6 & 7 before the court, in the interest of justice.

12. The learned Spl. Public Prosecutor has filed statement of objections and contended that, the present application filed by the accused No.2 & 11 (accused No.12 as not pressed this application) under Sec. 309 R/W 273 of Code of Criminal Procedure seeking the physical production of the Accused No.2 and 11 during the course of trial proceedings is devoid of merits. The prosecution has got examined PW.1 to PW13 till date (as on the date of filling the objections that is

on 15.06.2026). During the course of recording of evidence, this Court has ensured that all the accused persons who are in judicial custody are present before the Court through video conferencing unless exempted by this Court. It is also pertinent to note that all the said accused persons are represented by Advocates who have been present before this Court during recording of evidence. From commencement of evidence on 17.12.2025 till date, none of the accused have raised any issue or made a submission before this Court that they are unable to follow the proceedings effectively. No specific instance of prejudice or denial of fair opportunity has been demonstrated by the applicants before this Court. Such being the case, the present application filed with the said averment of connectivity issue is contrary to the factual scenario.

13. In the objections, it is further contended that, Section 508 r/w Section 530 of the BNSS, 2023 specifically permit recording of evidence, examination of witnesses and conduct of criminal proceedings through audio-video electronic means. Therefore, the appearance of the accused through video conferencing and recording of evidence in such mode is legally valid and fully in consonance with the statutory scheme contemplated under the BNSS. One of the applicants ie., Accused No.2 had approached the Hon'ble Supreme Court in W.P. (Crl.) No. 159/2026 seeking the relief of bail. The Hon'ble Apex Court vide order-dated 15.05.2026

has already taken note of the facilities being extended to under trial prisoners and his consultation with family & advocates. The prison authorities have specifically stated that, there is no restriction on the number of advocate meetings that an inmate can avail and adequate arrangements are being continuously made to facilitate interaction between the accused persons and their respective advocates.

14. This Court has been consistently ensuring prior to recording of evidence that the accused persons are able to properly see, hear and follow the proceedings through video conferencing facilities and only upon such confirmation, the evidence is being recorded. Whenever any temporary interruption or technical difficulty occurs during the course of proceedings, the same is suitably regulated and addressed by this Court to ensure that no prejudice whatsoever is caused to the accused persons. Hence, the allegations made in the application virtually amount to questioning the fairness of the procedure being adopted by this Court during the course of trial.

15. It is submitted that the physical production of the accused on every hearing date would require substantial deployment of police personnel and logistical coordination thereby causing unnecessary burden upon the State machinery and affecting effective judicial administration

owing to a mob like situation in Court hall. The Hon'ble High Court of Karnataka has formulated "Rules of Video Conferencing for Courts" wherein the Hon'ble High Court vide notification dated 25.06.2020 was pleased to formulate a rule that video conferencing facility may be used at all stages of judicial proceedings and proceedings conducted by the Court. In particular, Rule-8.3 states as follows:

"Where the person being examined or the accused to be tried, is in custody, the statement or, as the case may be, the testimony, may be recorded through video conferencing".

16. Further, Rule-11 also authorizes the Court to frame charge, authorized detention and record statement of accused under Sec.313 of Code. In view of the same, there is no mandate that physical production of accused is to be complied.

17. The Hon'ble High Court of Karnataka in a similar situation where the accused persons were involved in a case of murder while considering their request in W.P.No.7755/2023 in the case of Abdul Basheer & Ors v Inspector General of Police, was pleased to direct the State to provide all facilities to the prison to converse with the defense counsel, in accordance with law. Accordingly, the report submitted by the prison authorities before the Hon'ble Apex Court would indicate that the accused persons are provided

with prison call system facility (telephone facility) and also to meet family and advocates regularly.

18. In the objections, it is further submitted that the accused persons have failed to make out any exceptional or compelling circumstance warranting departure from the regular mode of appearance through video conferencing facilities. The Hon'ble Apex Court vide its order dated 15.05.2026 in WP(Crl.) 159/2026 which was filed by Accused No.2, was pleased to direct that endeavours should be made to see that at least 60 witnesses examination are examined in a period of 1 year and was further pleased to direct both the parties to co-operate and see to it that the witnesses are examined on regular basis as fast as possible. In spite of the same, the accused are filing one application after the other and are trying to drag the proceedings. The prosecution is always ready and willing to conduct the trial expeditiously in terms of the order dated 15.05.2026 passed by the Hon'ble Apex Court in WP(Crl.) 159/2026. Thus, viewed from any angle, even otherwise, the above application is devoid of merits and as such the same is liable to be rejected.

19. On perusal of the records it appears that, the Accused Nos. 2, 6, 7 and 11 have sought a direction to the state for their physical production before this Court on the ground that, in the absence of their physical presence, the learned counsel appearing for them are unable to obtain

effective instructions from them and that there are frequent interruptions and technical difficulties during video conferencing.

20. In this regard, the learned counsel appearing for Accused Nos. 2 and 11 have also placed reliance upon the decision of the Hon'ble Supreme Court in *A.T. Mytheen and Another v. Assistant Commissioner of Customs Department*, (2022) 14 SCC 392 and contended that the right of an accused to see and hear the prosecution witnesses while they are deposing before the Court is a valuable inbuilt right and that such right cannot be curtailed.

21. There can be no dispute with the proposition of the Law that, the evidence in a criminal trial has to be recorded in the presence of the accused and that the accused has a valuable right to see and hear the witnesses while they are being examined. Equally, the accused must be afforded a fair and effective opportunity to consult and instruct their advocates. The rights guaranteed to an accused in a criminal trial cannot, in any manner, be defeated by denying him reasonable access to his counsel. However, the question that arises for consideration in the present application is not whether the accused have a right to be present during the recording of evidence, but it is whether such presence necessarily requires their physical presence in the courtroom.

22. In the decision of **The State of Maharashtra Vs. Dr.Praful B Desai in SLP (CRL) No.6814/2001** (arising out of SLP (Crl) No 6815/2001) dtd.01.04.2003 in Para 19 , the Honble Supreme Court of India has held as follows:

“Thus it is clear that so long as the Accused and/or his pleader are present when evidence is recorded by video conferencing that evidence is being recorded in the "presence" of the accused and would thus fully meet the requirements of Section 273, Criminal Procedure Code. Recording of such evidence would be as per "procedure established by law". Recording of evidence by video conferencing also satisfies the object of providing, in Section 273, that evidence be recorded in the presence of the Accused. The Accused and his pleader can see the witness as clearly as if the witness was actually sitting before them. In fact the Accused may be able to see the witness better than he may have been able to if he was sitting in the dock in a crowded Court room. They can observe his or her demeanour. In fact the facility to play back would enable better observation of demeanour. They can hear and rehear the deposition of the witness. The Accused would be able to instruct his pleader immediately and thus cross-examination of the witness is as effective, if not better. The facility of play back would give an added advantage whilst cross-examining the witness. The witness can be confronted with documents or other material or statement in the same manner as if he/she was in Court. All these objects would be fully met when evidence is recorded by video conferencing. Thus no prejudice, of whatsoever nature, is caused to the Accused. Of course, as set out hereinafter, evidence by video conferencing has to be on some conditions.”

Based on the above preposition of law, it can be held that, so long as the accused and/or his pleader are present when evidence is recorded by video conferencing that evidence is being recorded in the "presence" of the accused and would thus fully meet the requirements of Section 273 of Criminal Procedure Code. The use of video conferencing is a recognized mode of securing the presence of an accused and in appropriate circumstances recording evidence. Therefore, the mere fact that an accused is in custody does not, by itself, create an absolute right to insist that his presence must invariably be secured physically on every date of hearing.

23. It is the grievance of the learned counsel appearing for accused Nos.2, 6, 7 and 11 is that, in the absence of physical production, they are unable to obtain proper and effective instructions from their clients. The effective right of defence and the right to fair trial necessarily include continuous and meaningful consultation between the accused and his counsel during the course of the trial. In the absence of proper interaction and immediate instructions from the accused, serious prejudice would be caused to the defence of the accused. But it is stated by the accused that, though advocate meetings are being facilitated in prison, adequate and meaningful consultation is not possible on account of the limited time provided for interaction, particularly having regard to the traveling time to the prison,

volume of evidence being recorded on a day today basis and the complexity of the present case involving numerous witnesses and documents coupled with the tedious process involved in entry and exit of Advocates at Central Prison, Bengaluru. In the absence of proper interaction and timely instructions from the accused, serious prejudice may be caused to the defence of the accused. However, the accused have not complained that they are being prevented from meeting, consulting or instructing their advocates. Their meetings with their advocates are being facilitated in the prison, without any restriction either on the number of meetings or on the duration thereof. The difficulty expressed by the accused is that adequate and meaningful consultation is not possible having regard to the travelling time to the prison and the attendant logistical difficulties. The said difficulty, therefore, is purely personal in nature.

24. It is also not the case of the accused that, they are prevented from communicating with their advocates, that the jail authorities have refused to provide them an opportunity for consultation, or that any unreasonable restriction has been imposed either regarding the duration of such consultation or the number of visits by their advocates. There is also no specific allegation that confidential communication between the accused and their advocates has been interfered with or otherwise restricted.

25. It is also significant to note that, when accused No.2 approached the Hon'ble Supreme Court seeking bail, the Hon'ble Supreme Court, after calling for a report from the jail authorities, made observations regarding the facilities and opportunities being provided to the accused for meeting their advocates. The Hon'ble Apex Court vide order-dated 15.05.2026 has already taken note of the facilities being extended to under trial prisoners and his consultation with family & advocates. The prison authorities have specifically stated that, there is no restriction on the number of advocate meetings that an inmate can avail and adequate arrangements are being continuously made to facilitate interaction between the accused persons and their respective advocates. Therefore, the advocates were and are permitted to meet the accused without restriction as to the number of such meetings. The said arrangement is stated to be continuing even as on date.

26. The Hon'ble High Court of Karnataka in a similar situation where the accused persons were involved in a case of murder while considering their request in **W.P.No.7755/2023 in the case of Abdul Basheer & Ors v Inspector General of Police**, was pleased to direct the State to provide all facilities to the prison to converse with the defense counsel in accordance with law. Accordingly, the report submitted by the prison authorities before the Hon'ble Apex Court would indicate that the accused persons are provided

with prison call system facility (telephone facility) and also to meet family and advocates regularly.

27. Therefore, the report submitted by the jail authorities before the Hon'ble Supreme Court, as well as the materials available on record, indicate that sufficient opportunity is being provided to the accused to consult and instruct their respective advocates, without imposing any unreasonable restriction either on the duration of consultation or on the number of meetings. Nevertheless, as a matter of abundant caution, this Court considers it appropriate to issue a direction to the jail authorities to continue to provide the accused with the fullest opportunity to consult and instruct their advocates in complete privacy, without imposing any unreasonable restriction on the duration or number of such consultations, until conclusion of the trial.

28. At the same time, the question before this Court is not merely whether video conferencing is legally permissible and accused who are in judicial custody are given adequate opportunity to consult their counsel before, during and after the evidence and to give instructions. The more important question is whether, in the facts and circumstances of the present case, the existing mode of production through video conferencing affords the accused a real, effective and meaningful opportunity to follow the proceedings, understand

the evidence and consult his counsel so as to enable him to defend himself effectively.

29. VIDEO-CONFERCING RULES: In this regard, the law is well settled. As far back as in the year 2003, the Hon'ble Supreme Court, in **State of Maharashtra v. Dr. Praful B. Desai**, (2003) 4 SCC 601 : AIR 2003 SC 2053, recognised the use of video conferencing for recording evidence and held that the requirement of the presence of a person before the Court does not necessarily mean his physical presence in the courtroom. The Court recognised video conferencing as a permissible mode of complying with the requirement of presence of the accused in judicial proceedings. Therefore, production of an accused through video conferencing is not, by itself, contrary to law and it is inconsonant with the law.

30. The Hon'ble High Court of Karnataka has formulated "Rules of Video Conferencing for Courts" 2020 vide notification dated 25.06.2020 and directed all the Courts to use it at all stages of judicial proceedings. In particular, **Rule-8.3** states as follows,

"Where the person being examined or the accused to be tried, is in custody, the statement or, as the case may be, the testimony, may be recorded through video conferencing. The court shall provide adequate opportunity to the under-trial prisoner to consult in privacy with their counsel before, during and after the video-conferrcing ".

31. Further, Rule-11 also authorizes the Court to frame charge, authorized detention and record statement of accused under Sec.313 of Code. In view of the same, there is no mandate that physical production of accused is to be complied. The relevant Video Conferencing Rules and directions issued by the Honble High Court of Karnataka contemplate the production of an accused who is in custody through video conferencing and require that adequate opportunity be provided to the under-trial prisoner to consult his advocate in privacy before, during and after the proceedings. Thus the Rules of video-conferencing has taken care of right and interest of the Under-trial provisioners by providing opportunity to consult their counsel in privacy before, during and after the proceedings and it is for the accused and their counsels to make use of such facilities. The object of such provisions is to ensure that the use of technology does not, in any manner, compromise the substantive or procedural rights of an accused. Where the accused is produced through an effective video-conferencing facility , whereby he is able to see and hear the proceedings and the Court is able to see and hear him, the requirement of his presence during the proceedings is duly satisfied.

32. It is also relevant to note that the Hon'ble High Court of Karnataka by its Circular dated 15.09.2022 in HCC No.31/2017, has directed the Courts in the State to make maximum use of video-conferencing facilities for the

production of prisoners before the respective Courts, instead of insisting upon their physical production. The aforesaid directions clearly demonstrate that production through video conferencing is recognised as a legally permissible mode of production of an accused before the Court.

33. Thus, there can be no dispute that production of an accused through video conferencing, when the facility is functioning effectively, is at par with physical production for the purpose of his presence before the Court and satisfies the requirement contemplated under Section 273 of the Code of Criminal Procedure.

34. Technical difficulties during video conferencing:-

The next contention raised on behalf of the accused is that, there are frequent interruptions in the video-conferencing facility on account of recurring technical difficulties and connectivity issues, thereby preventing the accused from effectively following the proceedings. This contention also cannot be accepted in the absence of any contemporaneous material demonstrating that such interruptions have caused prejudice to the accused. No such complaint has been brought to the notice of this Court during the recording of the evidence of the 23 witnesses examined so far.

35. The entire evidence of these 22 witnesses has been recorded when the accused were produced through video conferencing. Significantly, until the filing and the hearing of the present application, none of the accused had raised any objection before this Court regarding the mode of their production or complained that they were unable to effectively follow the proceedings on account of their production through video conferencing. Whenever, minor issues raised, the said technical issues were resolved immediately with due attention by the Court to ensure that no prejudice whatsoever is caused to the accused persons.

36. More importantly, while recording the evidence, this Court has been consciously verifying and recording the presence of the accused through video conferencing. The Court is able to see and hear the accused, and the availability of audio and visual connectivity is being continuously monitored during the proceedings. In the considered opinion of this Court, no such persistent or material technical failure has occurred so far as would render the accused incapable of following the proceedings or cause prejudice to their defence.

37. Nevertheless, considering the importance of uninterrupted video conferencing in a criminal trial, this Court proposes to issue appropriate directions to the Registry of the City Civil Court to ensure that adequate technical support is made available throughout the trial. Necessary

technical personnel shall be deputed to attend to the video-conferencing facility so that any technical difficulty or interruption is promptly rectified and the proceedings are conducted without any obstruction.

38. It is, therefore, evident from the facts and circumstances of the present case that the production of the accused through video conferencing has not, so far, affected any of their substantive or procedural rights. The facility provided by the Court and the jail authorities enables the accused to see and hear the proceedings and to effectively follow the evidence being adduced by the prosecution witnesses. At the same time, the accused are being afforded adequate and confidential opportunities to consult and instruct their respective advocates.

39. The material on record further establishes that, no unreasonable restriction has been imposed upon the accused in communicating with their advocates. The apprehension expressed by the learned counsel that the absence of physical production, by itself, prevents them from obtaining effective instructions is, therefore, not acceptable.

40. This Court is conscious of the fact that the right of an accused to effectively defend himself is a valuable right and that the procedure adopted during the trial must not result in prejudice to the defence. At the same time, the law

does not mandate physical production of an accused in every circumstance where his presence can effectively be secured through video conferencing. The use of video conferencing, when properly implemented and when adequate safeguards are provided, is a legally recognised mode of ensuring the presence of an accused before the Court.

41. Having regard to the totality of the circumstances, this Court is of the considered view that, the applicants have not made out grounds for permitting physical production of accused Nos.2, 6 ,7 and 11 during the course of recording of prosecution evidence. Accordingly, **point No.1** is answered in the **Negative**.

42. **Point No.2:** With these observations, I pass the following:

ORDER

The application filed by the learned counsel for Accused Nos.2 and 11 under Sections 309 read with 273 of the Code of Criminal Procedure and Memo filed by the learned counsel for A6 & A7, seeking a direction for their physical production before this Court during the trial, are rejected.

However, the Jail Authorities are directed to provide the accused with complete and unrestricted opportunity to consult and communicate confidentially with their respective advocates, without imposing any unreasonable restriction on the duration or number of such consultations, so as to enable them to give full and effective instructions to their advocates throughout the trial as per Rule-8.3 of Rules of Video Conferencing for Courts, 2020.

The Registry of the City Civil Court is directed to depute adequate and competent technical personnel, to ensure that the video-conferencing facility remains functional and effective throughout the trial and that any technical difficulty or interruption is attended to and rectified without delay. It is also directed to the Registrar, and the technical team, to make necessary arrangement for advocate consultation to the under trial prisoner before, during and after recording the evidence as per Rule-8.3.

The accused shall be afforded adequate opportunity to consult their counsel in privacy before, during and after the VC proceedings, wherever such consultation is necessary.

Before commencement of evidence through VC, the Court shall ascertain that the concerned accused is able to properly see and hear the proceedings. If there is any material interruption in audio or video transmission, the same shall immediately be brought to the notice of the Court.

(Dictated to the Stenographer Grade-III directly on computer, corrected by me and then pronounced in the open Court on this **the 17th day of August, 2026**)

(Sujata.M.Sambrani)
LVIII Addl. City Civil & Session Judge,
Bengaluru.