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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4715 OF 2015

Maresh Baburao Patil

..Petitioner.

V/s.

The State of Maharashtra and Ors.

..Respondents.

Mr.S.B.Deshmukh i/b. Mr. R.D.Suryavanshi for the petitioner.

Mrs.U.V. Kejriwal, APP for respondent-State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.**

DATED : 10TH FEBRUARY, 2016

P.C. :-

1. Heard Mr.Deshmukh, learned counsel for the petitioner and learned APP for the State.

2. The petitioner has filed this petition seeking transfer of investigation in respect of C.R. No.I-622/2015 registered with Mahatma Phule Chowk police station, Kalyan, District Thane for the offences punishable under section 302 / 115, 120(B) of the Indian Penal Code. Section 3, 25 (1-B) of the Indian Arms Act and section 37(1) and 135 of the Maharashtra Police Act from the Anti Extortion Cell, Crime

Branch, Thane to Anti Extortion Cell, Crime Branch, Mumbai or to any other appropriate agency of Mumbai police.

3. The said F.I.R. is registered on the basis of complaint lodged by one Manojkumar Hubalal Prajapati, Police Sub-Inspector of the Anti Extortion Cell, Crime Branch, Thane. The F.I.R. reveals that one Kunal Patil had entered into a conspiracy to murder with the help of contract killers located in Uttar Pradesh. From the interception of the call, the location of the accused were revealed and thereafter, they were apprehended and it was learnt that the conspiracy was to kill the petitioner.

4. After completion of investigation, charge-sheet is filed before the concerned Magistrate for the offences under the provisions mentioned hereinabove.

5. The main grievance of the petition is that there is no proper investigation conducted in the matter. The accused were allowed to be released under section 167(2) of the Criminal Procedure Code. The petitioner's statement is not recorded though there was a conspiracy to murder him. He

contends that though Kunal Patil is a co-accused, one Wandar Patil also conspired with them and ought to have been made an accused.

6. Learned APP submits that on the basis of evidence available with the police, the persons named in the F.I.R. were arrested and charge-sheet is filed against them. She further submits that recording statement of the petitioner is of no relevance in the present case as he was the proposed victim. She also stated that charge-sheet could not be filed within the stipulated time of 60 days as the officer was wrongly advised that the period of filing charge-sheet is 90 days.

7. Be that as it may, it is pointed out by the learned APP that the charge-sheet is filed by seeking option of further investigation under section 173(8) of the Criminal Procedure Code. A statement is also made by Mrs.Kejriwal, having taken instructions from the officer who is present in Court, that in fact further investigation of the subject F.I.R. is going on. Learned APP states that the petitioner is always at liberty to approach the investigating officer and make his grievance so that the investigating office will do the needful. Mr.

Deshmukh, learned counsel for the petitioner also stated that the petitioner will approach the investigating officer and make his grievance in writing.

8. In the above circumstances, we grant liberty to the petitioner to approach the investigating officer of the subject case and make his grievance in writing. The investigating officer shall thereafter look into the same and do the needful.

9. In the light of the allegations made in the petition, we direct the further investigation of the case shall be made under the guidance and supervision of the Additional Commissioner of Police, Crime Branch, Thane.

10. In the above circumstances, we do not find it necessary to transfer the investigation as prayed for by the petitioner.

11. Subject to above, the petition is disposed of.

(V.L.ACHLIYA, J.)

(RANJIT MORE, J.)