

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

CRIMINAL WRIT PETITION NO.851 OF 2023

Pravin Annasaheb Bikkad,
Under Guardianship of father -
Annasaheb Tatyaram Bikkad

..Petitioner

Versus

The State of Maharashtra
and another

..Respondents

Mr.Y.K.Bobade, Advocate for petitioner
Mr.V.S.Choudhary, APP for respondent no.1

**CORAM : R.G.AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATE : AUGUST 03, 2023**

ORDER :-

Learned APP waives notice for respondent no.2 as well. He informs the charge sheet to have been filed.

2. The petitioner herein is the informant (victim). On his report, crime has been registered for the offences punishable under Sections 326, 323, 504 and 506 read with Section 34 of Indian Penal Code. According to the petitioner, it was a bid on his life. He was assaulted on his head. Photograph of the injury is relied on.

In short, the petitioner seeks direction to the Investigating

Officer to invoke Section 307 of Indian Penal Code against the accused.

3. Admittedly, charge sheet has now been filed. The petitioner is not remediless. It is a case instituted on police report. If the trial court has not taken cognizance of the offence and issued process, the petitioner herein shall immediately approach the trial Court and put-forth his case. On perusal of the police papers, before taking of the cognizance, the trial court may be justified in issuing process for offence under Section 307 of I.P.C., if the case is made out by the petitioner.

4. If the trial Court has already taken cognizance of and issued process for offence under Section 326 of I.P.C. and related offences under Indian Penal Code, then it being a warrant case, procedure prescribed in Chapter XIX of the Code of Criminal Procedure would be applicable. While framing of the charge under Section 240 of Cr.P.C., if the Court of learned Magistrate finds it to be a case of offence under Section 307 of Indian Penal Code, it may commit the case to the Court of Session, for trial. Then, there is Section 323 of Cr.P.C., which reads thus :-

323. Procedure when, after Commencement of inquiry or trial, Magistrate finds case should be committed.- If, in any inquiry into an offence or a trial before a Magistrate, it appears to him at any stage of the proceedings before signing judgment that the case is one which ought to be tried by the Court of Session, he shall commit it to that Court under the provisions hereinbefore contained and thereupon the provisions of Chapter XVIII shall apply to the commitment so made.

5. In view of the above, the Writ Petition stands disposed of with liberty to the petitioner to approach the trial court and avail the remedies, as have been suggested herein above.

[SANJAY A. DESHMUKH, J.]

[R.G. AVACHAT, J.]

KBP