

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

CRIMINAL WRIT PETITION NO.1883 OF 2022

Premchand s/o. Gulabchand Nahar	..Petitioner
Vs.	
The State of Maharashtra and ors.	..Respondents

Mr.S.V.Dixit, Advocate for petitioner
Mr.A.R.Kale, APP for respondents

**CORAM : SMT. ANUJA PRABHUDESSAI
AND R.M.JOSHI, JJ.
DATE : FEBRUARY 01, 2023**

PER COURT :-

With the consent of learned counsel for the parties, the petition is heard finally

2. By this Writ Petition under Article 226 of the Constitution of India, the petitioner seeks direction against the respondent no.2 to change the Investigating Officer, who is investigating the FIR bearing Crime No.218 of 2020, registered with Wadwani Police Station, Dist. Beed and to hand over investigation to any other competent Investigating Officer of a nearby police station.

3. The petitioner herein had filed FIR dated 11.10.2020, alleging that the persons named in the FIR had formed an unlawful assembly armed with deadly weapons and abused, assaulted and threatened him. Pursuant to the said FIR lodged by the petitioner, the aforesaid crime came to be registered for offences punishable under Sections 143, 147, 148, 323, 327, 504 and 506 read with Section 149 of Indian Penal Code. Subsequently, Section 324 of I.P.C. came to be added.

4. The persons named in the FIR had filed applications for pre-arrest bail before the Sessions Court, Majalgaon. Said applications were rejected by learned Sessions Judge. The applicants, therefore, preferred application for anticipatory bail before this Court being Anticipatory Bail Application No.1098 of 2020. Said application was opposed by the prosecution and upon hearing the parties, this Court, by order dated 04.01.2021, granted bail to the applicant nos.1, 3, 5 and 6 in said application and rejected the application filed by the applicant nos.2 and 4 therein. However, no attempt was made by the Investigating Officer either to arrest those accused persons or interrogate them. It is further stated that the investigating agency has not taken steps to investigate the crime.

5. The record reveals that upon registration of the crime, Mr.Nitin Mirkar, A.P.I., who was investigating the said case, had recorded statements of four witnesses and submitted "B" summary report. By order dated 08.11.2022, learned Judicial Magistrate, First Class, Wadwani, rejected the "B" summary report, and ordered further investigation and directed the Investigating Officer to submit the report within 60 days from the date of the order.

6. Learned APP states that the said order was received by the Investigating Officer Mr.A.S.Kangune, A.P.I. on 13.11.2022. He claims that the Investigating Officer had called the complainant on 23.11.2022 and on the same day, conducted the scene of offence panchnama. Learned APP further states that the notice under Section 160 of the Code of Criminal Procedure was sent to the witnesses on 23.11.2022. Since the witnesses did not remain present, no further investigation could be carried out. It is stated that the present Investigating Officer sought extension of time by 30 days.

7. The records reveal that the then Investigating Officer had not even conducted scene of offence panchnama. The same has been drawn after rejection of "B" summary report. There was absolutely no progress in the investigation.

8. It is seen that even after extension of time, Mr.A.S.Kangune, A.P.I., had not carried out further investigation. It is only after the petitioner approached this Court and pursuant to the order of this Court, that the Investigating Officer has recorded statements of the witnesses on 26.01.2023. The manner in which the crime is being investigated is far from satisfactory.

9. Learned APP, on instructions from the Investigating Officer who is present in the Court, makes a statement that the investigation will be completed and the report will be filed within the time extended by learned Judicial Magistrate, First Class, i.e., on or before 09.02.2023. The statement is accepted.

9. We direct the Superintendent of Police, Beed, to look into the matter to monitor the investigation and to take necessary action in case of non-compliance of the order of learned Judicial Magistrate, First Class and lapse in investigation.

10. With these directions, the petition stands disposed of.

[R.M. JOSHI, J.]

[SMT. ANUJA PRABHUDESSAI, J.]

KBP