



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

CRIMINAL WRIT PETITION NO.458 OF 2019

Sarfraj S/o Shaikh Abdul Salam,
Age-38 years, Occu:Labour-Work,
R/o-Bhaldarpura, In front of
Rabdari-Mosque, Peth-Beed,
District-Beed.

...PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through: Principal Secretary,
Home Department, Mantralaya,
Mumbai-32,
- 2) District Inspector General of Police,
Beed District.

...RESPONDENTS

...
Mr. M.A. Tandale Advocate for Petitioner.
Ms. P.R. Bharaswadkar, A.P.P. for Respondents.

...
**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 29th JANUARY, 2025

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. Present Writ Petition has been filed invoking the constitutional powers of this Court under Article 226 of the Constitution of India for giving directions to respondent No.1 to

appoint C.B.I., or any other Senior Police Officer to investigate the crime.

2. Heard learned Advocate Mr. Tandale for the petitioner and learned APP Ms. Bharaswadkar for respondents.

3. The petitioner lodged First Information Report (for short 'the FIR') vide Crime No. 412 of 2017 in Peth-Beed Police Station, District-Beed on 2nd October 2017, for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code and Section 3 punishable under Section 27 of the Indian Arms Act. The story in the nutshell is that the petitioner – informant lodged the said report from Government Hospital. He states that around 3.30 p.m. on 1st October 2017, he had gone to District Stadium, Beed for playing cricket. Around 6.19 p.m. his friend Shaikh Mohsin gave phone call and asked as to where he was. Then informant told that he is at District Stadium, Beed. His friend arrived there on motorcycle. By that time the game was over. Thereafter the petitioner himself as well as his friend Mohsin started to go to home on their respective motorcycles. On the way, his friend Shaikh Mohsin received 2 to 3 phone calls whereby inquiry was made, where they were. When the petitioner was proceeding towards Chandni Chowk from

Ambedkar Statute and was in front of mutton market, he heard some noise from behind. At that time, when he felt that something had brushed him to his left side of the waist, he thought that it was a stone and therefore, he saw backwards. Then he saw that two persons had come on motorcycle. They were unknown and the pillion rider was holding revolver in his hand. That person shot the bullet towards the petitioner, as a result of which, the petitioner got frightened and he proceeded his motorcycle in zigzag way and therefore the said bullet went over his head. One more bullet was fired towards the informant, which was obviously with the intention to kill him, but the informant jumped from the motorcycle and left the motorcycle there and started running. That bullet also did not hit him. But as the petitioner sustained injuries, he was then taken to Government hospital.

4. Learned Advocate for the petitioner has submitted that there is absolutely no progress in the investigation and therefore, the matter deserves to be transferred, either to the Senior Police Officer or the C.B.I.

5. Learned APP, upon instructions, submitted that "A" Summary has been filed in the year 2020 itself and it is still

pending.

6. We, therefore, gave oral directions to learned Registrar (Judicial) to get the status from the concerned Judicial Officer. He has immediately taken the information in writing from the learned 2nd Joint Civil Judge (Junior Division) and Judicial Magistrate First Class, Beed. In the said letter dated 29th January 2025, learned Magistrate states that in the said matter, "A" Summary has been duly registered on 31st October 2020. His predecessor had issued notice to the informant on the same day, but ultimately the presence of the informant could be secured on 27th July 2023. The informant appeared through Advocate and sought time to file reply/protest petition. Accordingly, time was granted. Thereafter on subsequent dates the informant has sought time. In spite of giving several opportunities, no substantive reply or protest petition has been filed by the petitioner and therefore, the matter is still pending.

7. Here, after receipt of above said letter, we have made inquiry with the learned Advocate for the petitioner. He submits that the said "A" Summary has been filed.

8. The petitioner cannot deny that in the said "A" Summary, he has been summoned by the learned Magistrate. The record shows that an opportunity has been given several times to the informant to file the protest petition. The procedure will have to be adhered to and therefore, when "A" Summary has been filed, we cannot handover investigation to anybody else. Now, in this case the petitioner appears to be playing delaying tactics. Though this Petition is filed in the year 2019, at no point of time earlier, after his appearance in 2023 before the learned Magistrate, there was an attempt by him to appraise this fact to this Court. The petitioner does not even deserve sympathy due to his own behaviour and the Petition deserves to be dismissed.

9. The Writ Petition stands dismissed.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE