



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

77 CRIMINAL WRIT PETITION NO.843 OF 2024

RAJU JAGANATH POPALGHAT

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. K.S. Solanke, Advocate h/f Mr. S.J. Naik, Advocate for petitioner

Mr. V.S. Badakh, APP for respondent Nos.1 to 3

...

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

DATE : 18th FEBRUARY, 2025

ORDER :

1 Present writ petition has been filed for directing respondent No.2 to hand over the investigation of Crime No.45/2024 dated 22.02.2024 registered with Chaklamba Police Station, Dist. Beed to the officer not below the rank of Deputy Superintendent of Police. Learned Advocate for petitioner submits that he is not pressing for this relief as no *mala fides* have been attributed to the Investigating Officer.

2 Further prayer in the writ petition is that respondent No.2

should be directed to decide the communication dated 28.02.2024 given by petitioner and together with this another prayer is that respondent No.2 be directed to add Section 307 of the Indian Penal Code.

3 In respect of other two prayers narrated above learned Advocate for petitioner submits that still the matter is under investigation and the charge sheet has not been filed. Under the said circumstance, we are of the opinion that if the Investigating Officer comes to the conclusion that case is made out to attract the ingredients of Section 307 of the Indian Penal Code, then definitely that can be considered by the Investigating Officer and we may also rely on Section 323 of the Code of Criminal Procedure and according to the same even if the charge sheet is produced (not adding Section 307 of the Indian Penal Code); yet, if the Magistrate comes to the conclusion that the case is required to be committed to the Court of Session, then he may at any stage of the proceedings may use the said powers. Under such circumstance, no specific order is required to be given in the present writ petition. With these directions, the writ petition stands disposed of.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)