



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 CRIMINAL WRIT PETITION NO.1150 OF 2025

Milind Avachit Baisane,
Age: 57 years, Occ: Business,
R/o: Flat No. 01, Prathamesh Apartment,
Mahavir Colony, Sakri Road,
Mohadinagar, Tal. and Dist. Dhule.

.. Petitioner

Versus

1. The State of Maharashtra,
Through Secretary, Home Department,
Mantralaya, Mumbai 400032.
2. The Superintendent of Police,
Dhule District Police Office, Dhule.
3. The Deputy Superintendent of Police,
Dhule City Division
Rajkumar Maruti Upase (Current Investigating Officer),
Mohadinagar Police Station,
Taluka and District Dhule.

.. Respondents

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Mr. Chetan B. Chaudhari, Advocate for the Petitioner.
Mrs. P. R. Bharaswadkar, APP for Respondents/State.

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**CORAM : SMT. VIBHA KANKANWADI &
SUSHIL M. GHODESWAR, JJ.**

DATE : 22 AUGUST 2025

ORDER :

. Present writ petition has been filed for directing respondent No.2 to appoint a new and impartial investigating officer in place of respondent No.3 for conducting further investigation in Crime No.156 of

2025.

2. Heard learned Advocate for the petitioner, who has taken us through the FIR lodged by the petitioner and submits that the said FIR was lodged by him at 18.24 hours on 23.05.2025 and since it was under the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 also, the investigation is with respondent No.3. He further submits that the same Police Station has registered offence vide Crime No.157 of 2025 at 22.21 hours on 23.05.2025 lodged by one Prashant Rajesh Patil for the offence punishable under Sections 119(1), 115(2), 352, 351(2), 351(3), 3(5) of Bharatiya Nyaya Sanhita, 2023 and said Prashant Patil was accused No.1 in Crime No.156 of 2025 registered by the present applicant, yet said Prashant Patil was not arrested by respondent No.3. The second point which he wants to raise is that original accused persons had filed Anticipatory Bail Application No.475 of 2025 before the learned Special Judge (under S.C. and S.T. Act), Dhule and on 19.06.2025, an order came to be passed granting Anticipatory Bail to the accused persons by the concerned Court. In the said order, the Medico Legal Certificate of simple injuries only was produced, when in fact according to the petitioner, he sustained grievous hurt. When he applied for the copy of the Medico Legal Certificate by filing an application on 19.06.2025, he has not received any response. Therefore, the petitioner is of the opinion that there is no fair

investigation and, therefore, he has knocked the doors of this Court for change of this investigating officer.

3. The first and the foremost fact to be noted is that the present petitioner appears to have not sought information as to at what time the investigation was handed over to respondent No.3 in respect of Crime No.156 of 2025. The offence was registered with Mohadinagar Police Station, District Dhule and respondent No.3 is Sub Divisional Police Officer, Dhule City Division, Dhule. Though it is the usual procedure that the investigation is required to be handed over as early as possible, yet the actual time would have fixed the responsibility. Another fact is that even if that investigation of Crime No.156 of 2025 would have been handed over prior to the registration of Crime No.157 of 2025 at 22.21 hours, yet the investigating officer's office is at a different place than the police station. Definitely, he would take time to study the matter and then the action for arrest can be taken. Now, it appears that the Anticipatory Bail Application was filed on 27.05.2025. In the said application, the present petitioner was respondent No.2 and he has been heard by the concerned Special Judge before granting the bail. On the ground of not arresting the accused persons, the investigating officer cannot be changed. For change of investigating officer, *mala fides* have to be shown. Now, whatever the Medico Legal Certificate was given by the concerned medical officer appears to have been forming part of the

investigation papers and those were shown to the learned Special Judge. Respondent No.3 ought to have responded to the application dated 19.06.2025, but not providing that would also be not a ground to infer *mala fides*. The investigation is still going on and, therefore, we are of the opinion that no case is made out for change of investigating officer. We dispose of the present writ petition with direction to respondent No.3 to follow Section 193(3)(ii) of Bharatiya Nagarik Suraksha Sanhita, 2023 henceforth.

[SUSHIL M. GHODESWAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm