IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1536 OF 2023

Sandip Bhujang Tawale Petitioner

Versus

1. The State of Maharashtra
2. Director General of Police, Maharashtra
3. Police Commissioner, Aurangabad
4. Superintendent of Police, Osmanabad
5. In-charge of Police Station, Yermala.
6. Investigating Officer, Yermala Police Station
7. Atul Yuvraj Patil
8. Ravindra Limbraj Tawale Respondents

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Mr. V.D. Sapkal, Senior Advocate i/by Mr. A.B. Jagtap, a/w Ms. Shruti Ghare, Advocates for the petitioner.
Mr. A.S. Shinde, A.P.P. for respondent Nos.1 to 7.
Mr. D.A. Madke, Advocate for respondent No.8.

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CORAM : **SANDIPKUMAR C. MORE AND VAISHALI PATIL-JADHAV, JJ.**

Reserved on : 24.09.2026
Pronounced on : 19.11.2026

Order (Per Sandipkumar C. More, J.) :

1. Rule. Rule made returnable forthwith. Heard finally at admission stage with the consent of rival parties.

2. By way of this writ petition the petitioner is seeking transfer of investigation of Crime No.227/2023 registered with Yermala Police Station, District Osmanabad on 20.07.2023 for the offence punishable under Section 302 of the Indian Penal Code, to State C.I.D. Crime Branch, Pune for proper investigation.

3. According to the petitioner, his brother Santosh Bhujang Tawale had gone to sleep in their agricultural field on 19.07.2023 at about 9.30 p.m. and did not wake up in the next morning. Therefore, adjacent land owner Shrinivas Kisan Shingare had gone to wake him up. But at the relevant time he found that throat of Santosh was cut by sharp weapon. During the investigation it was found that one Ravindra Tawale was having land dispute with the deceased and his family members had in fact assaulted the deceased and killed him. However, the petitioner contended that the act of committing murder of his brother Santosh could not be performed by one person, and therefore, the family members of accused Ravindra must have accompanied him. Therefore, he continuously raised objection before the Investigating Officer, Home Minister as well as superior officers of Investigating Officer about including names of other accused.

Since no action was taken by the concerned Investigating Officer even after raising such objection, the petitioner filed this writ petition being aggrieved with the manner in which respondent No.7 conducted investigation, for seeking transfer of investigation as mentioned above.

4. On the contrary, respondent No.7, by filing affidavit-in-reply strongly opposed the petition and submitted the details of investigation carried out by him him to arrive at a conclusion that only accused Ravindra committed the present crime.

5. Learned senior counsel Mr. V.D. Sapkal for the petitioner submitted that though it was contended by the petitioner that some other persons are involved in the crime, and only accused Ravindra was arrested and the Investigating Officer conspired with other accused and kept them away from the crime. He pointed out that the Investigating Officer did not collect CDR to trace out the other accused. According to him, considering the nature of injuries and health of deceased it was highly impossible for the accused Ravindra to commit his murder single handedly. It is his main allegation that since the Investigating Officer was related to the accused,

he screened other persons involved in the crime. In support of his submissions he relied on the judgments ***Dharampal vs State of Haryana and others*** reported ***(2016) 4 SCC 160*** and ***Neetu Kumar Nagaich vs State of Rajasthan*** reported in ***(2020) 16 SCC 777***.

6. On the contrary, learned A.P.P. supported the manner in which Investigating Officer carried out the investigation. He pointed out that the investigation is completed and charge-sheet is also filed and at present Sessions Case No.138/2023 in respect of the aforesaid crime is pending wherein charge is also framed and muddemal property is awaited. As such, he submits that at such belated stage no re-investigation can be carried out by transfer of investigation.

7. It is significant to note that the petitioner is claiming transfer of investigation mainly on the following grounds :

(1) Investigating Officer is closely related to accused and accused is powerful person. He has not collected any evidence.

(2) Real culprits are not found yet and for that purpose independent agency like CBI is required.

(3) Investigating Officer has not recorded statements family members of deceased even after two months and thus he is favouring accused.

(4) Though axe is recovered from accused but no search has been taken of other conspirators.

(5) Deceased was healthy and for committing any crime with him, more than one person was needed.

(6) Photograph shows that someone held the deceased while another assaulted him.

(7) Victim and accused both have right to fair investigation and fair trial. Fair investigation is constitutional right.

(8) Villages protested and filed representation to the Collector and Superintendent of Police for transfer of investigation.

8. However, on going through the affidavit-in-reply filed by the Investigating Officer (respondent No.7), it is clearly evident that his native place is of District Jalgaon, and therefore, there is no question of his relationship with the family members of accused Ravindra. The charge-sheet on record clearly indicates that the Investigating Officer has recorded statements of Bhujang Shrirang Tawale and family members. Moreover, forensic van, I-bike, Dog Squad alongwith two Government witnesses had also visited the spot and necessary seizures were made. Dead body was sent to Medical Officer for conducting postmortem immediately. Moreover, there was immediate arrest of accused Ravindra on

the next day itself. His PCR was also taken and on the basis of disclosure statement made by him, iron axe allegedly used in the crime, was also seized. Necessary samples were also sent to Chemical Analyzer for examination and one Swift Dezire car in the name of Ramling Shrimant Kadam i.e. brother-in-law of accused used in the offence, was seized expeditiously. Investigating Officer submitted that on detailed investigation, it was revealed that only accused Ravindra alone committed the crime.

9. Admittedly charge-sheet is filed and case is committed to the Court of Sessions. Further, the charge is also framed against the present accused and trial is pending for awaiting muddemal property. It is significant to note that the petitioner is claiming transfer of investigation or re-investigation mainly on the ground that considering the health of deceased, it was not possible for accused Ravindra to commit his murder single handedly, and therefore, there must have involvement of other persons also. However, considering the investigation on record, nothing is found about involvement of other persons. There is no eye witness to the incident or there was no circumstance on record to show that the accused Ravindra was accompanied by other

persons. It is to be noted that the deceased was assaulted while he was in deep sleep. Under such circumstances, in absence of any evidence leading to the omission made by the Investigating Officer during investigation, it cannot be said that he was at fault and in fact favoured the other persons allegedly involved in the crime. The allegation that the Investigating Officer was related with accused and therefore favoured them for not joining them as accused in the instant case, appears baseless.

10. In the case of ***Dharam Pal vs State of Haryana*** (supra) it is observed by the Hon'ble Apex Court as follows :

> "*The power of constitutional courts to order fresh, de novo, or reinvestigation, or to transfer investigation to another agency like the CBI, is not fettered by the stage of the case. Commencement of trial and examination of some witnesses is not an absolute impediment. If a grave suspicion arises regarding the investigation based on some foundation, not wild imagination and fair investigation is imperilled, the court can exercise this power sparingly and in exceptional circumstances to ensure a fair trial and prevent miscarriage of justice. Fair investigation is a constitutional right under Articles 20 and 21*".

Further, in the case of ***Neetu Kumar Nagaich*** (supra) it is observed as follows :

> *"A fair investigation is a constitutional right under Article , just like a fair trial. Normally, after a police report under Section 173(2) Cr.P.C. only further investigation can be ordered under Section 173(8) Cr.P.C. But in exceptional circumstances, where the constitutional court is satisfied that the investigation was not conducted in a proper and objective manner, or was done to help someone escape the law, the court can set aside the closure report and direct a de novo investigation by a fresh independent team to secure the ends of justice".*

11. However, there should be some important material placed before the Investigating Officer for roping the other persons as an accused. In the instant matter, investigation appears to be conducted in all respects and merely the suspicion of the petitioner about involvement of other persons, cannot be entertained without any supporting material. Moreover, the reinvestigation after filing of charge-sheet, is to be carried out in exceptional circumstances. Even otherwise also, the petitioner, if succeeds by pointing out the evidence during the trial about involvement of other persons in the crime, necessary action can be taken for joining them as an accused. At this juncture what is reflected, is that the satisfactory investigation is carried out.

12. Under such circumstances, we do not find any substance in the contention of petitioner that reinvestigation is required in this case. In view of the same, the criminal writ petition stands dismissed. Rule is discharged.

(VAISHALI PATIL-JADHAV)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE