

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3574 OF 2019

Vivek Mahadev Yadav

.....Petitioner

Versus

The State of Maharashtra and Ors.

.....Respondents

Mr. Niranjana Mundargi a/w. Mr. Nilesh Tribhuvan i/b. Pranav Avhad,
Advocate for the Petitioner.

Mr. F.R. Shaikh, APP for the Respondent State.

**CORAM : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.**

DATE : 1st AUGUST, 2019.

ORAL ORDER :

1. The petitioner, who is a recipient of several death threats, and prone to attacks due to political rivalries, has approached this Court, challenging the letter dated 22.06.2019, by which the Deputy Commissioner of Police, Pune has informed him that in pursuance of the decision taken by the committee on 21.06.2019, in absence of the threat perception, the police protection granted to him in the year 2016 has been withdrawn.

2. Mr. Mundargi, learned counsel for the petitioner would submit that the impugned letter do not take into consideration the recent FIR No.188 of 2017 registered with Koregaon Police Station, which discloses that the whereabouts of the petitioner were sought by Mr.

Nilesh Ghaywal and on the basis of which, the FIR has been registered.

3. Mr. Shaikh, the learned APP has placed before us the decision taken by the committee and the same was communicated to the petitioner by the impugned letter. The said decision placed before us, discloses that the committee under the Chairmanship of the Commissioner of Police/Additional Commissioner of Police has taken a review of the situation and recorded that there is no threat perception to the petitioner since last two years and resultantly they do not deem it appropriate to continue the 24 hours security protection granted to the petitioner in the year 2016. It also noted that there are several cases registered against the petitioner, to which Mr. Niranjana Mundargi has responded that when the protection was granted, all these cases were already registered and were pending and in fact, in five cases the petitioner is acquitted.

4. In any contingency, we are of the express opinion that when the expert committee constituted for the purpose of reviewing the decisions whether to provide the police protection or not, have arrived at a decision and recorded subjective satisfaction that no threat perception exists, we do not intend to interfere in the said decision since no specific perversity or illegality is attributed. However, we have also taken a note that the petitioner is a witness in criminal cases and in terms of the policy decision of State Government, he is entitled for protection as a witness.

Mr. Mundargi, learned counsel for the petitioner has made a specific submission that as a witness, he is expected to attend the case proceedings in the week commencing from 05.08.2019 and since he apprehends a threat, immediate protection may be granted to him. In terms of the policy decision of the State Government, it is the duty of the State Government to protect the witnesses and an apprehension expressed by the petitioner needs to be dealt with by a committee constituted under the Government Resolution and the committee would then take an independent decision whether the petitioner is to be granted protection as a witness. The learned Counsel for the petitioner has made a submission that after the impugned order was passed, he has preferred a representation to the Commissioner of Police, Pune on 26.06.2019 where he has urged that he is entitled to police protection being a crucial witness and he has given the details of the said case. Since the representation preferred by the petitioner has not been addressed by the Commissioner of Police, Pune, we direct the Commissioner of Police, Pune to take into consideration the said representation and place the said representation before the committee constituted under the Government Resolution to take a decision on providing protection to the witnesses.

5. However, since it is informed that the petitioner has to attend the proceedings in the next week, we direct the respondents to continue with the police protection to the petitioner till the matter of the petitioner is

placed before the committee constituted under the Government Resolution. Needless to say that for the said purpose, the petitioner to bear the necessary expenses as he was already doing under the earlier orders. However, we categorically refuse to interfere in the impugned letter and partly allow the Writ Petition. In the aforesaid terms, we expect that the committee to take decision within a period of two weeks from the date of receipt of the order.

6. With the aforesaid directions, writ petition stands disposed off.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]