

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRWP-5867-2021 (O&M)
Date of decision: 18.02.2022**

Gurjant Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Rajbir Singh Attri, Advocate for the petitioner.

Mr. Davinder Bir Singh, DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Prayer in the present petition is for issuance of a writ in the nature of mandamus directing respondents to protect the life and liberty of the son of the petitioner as it is the version of the petitioner that his son is facing threats at the hands of respondents No. 2 to 10 and the petitioner apprehends a planned encounter of his son under a political pressure. A further prayer is made to direct the respondent-State to get a fair investigation conducted in FIR No. 68 dated 28.05.2021 under Sections 399 and 402 IPC and Section 25 of the Arms Act, registered at Police Station Tappa Mandi, from some independent agency.

On 20.07.2021, it was submitted by the learned counsel for the petitioner that the petitioner and his wife remained as President of Municipal Council, Dhanaula, and their son-Gurmeet Singh Mann @ Kala Dhanaula

was also a member of District Planning Board Barnala besides holding the Chair of Vice-President of Municipal Council, Dhanaula. It was further submitted that being from a political party, the son of the petitioner had been implicated in several cases and he remained inside the jail almost for nine years in a murder case without any parole and his sentence was suspended vide order dated 19.01.2021 passed by a Division Bench of this Court. Still further, it was contended that the son of the petitioner was falsely implicated in three cases within a period of one week of his release from the jail, out of which in two cases, he was on bail and that the petitioner had also made a representation to respondent No. 6-Senior Superintendent of Police, but no action was taken thereon.

Today, at the outset, learned State counsel submits that the prosecution is in the process of filing a cancellation report in FIR No. 68 dated 28.05.2021 aforesaid.

I have heard the learned counsel for the parties.

The Hon'ble Apex Court in the case of Romila Thapar and Ors. Vs. Union of India and Ors., (2018)10 SCC 802, has held as under:-

“21. Turning to the first point, we are of the considered opinion that the issue is no more res integra. In Narmada Bai Vs. State of Gujarat and Ors. (2011) 5 SCC 79, in paragraph 64, this Court restated that it is trite law that the accused persons do not have a say in the matter of appointment of Investigating Agency. Further, the accused persons cannot choose as to which Investigating Agency must investigate the offence committed by them. Paragraph 64 of this decision reads thus:-

“64. It is trite law that accused persons do not have a say in the matter of appointment of an investigation agency. The accused persons cannot choose as to which investigation agency must investigate the alleged offence committed by them.”

As noticed above, various cases have been registered against the son of the petitioner. No material has come on record, which can substantiate the bald averments of the petitioner that the police would carry out his son's encounter. Even otherwise, as per the petitioner himself, he has filed this petition on the basis of apprehension.

In terms of the aforesaid judgment of the Hon'ble Apex Court, the accused cannot have any say in the matter of appointment of Investigation Agency.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

(HARNARESH SINGH GILL)
JUDGE

18.02.2022
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No