

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

262

CWP-23245-2018

Reserved on:12.09.2022

Date of decision:17.10.2022

Rajat Kalsan

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Ms. Amrita Garg, Advocate,
for the petitioner.

Mr. Chetan Sharma, AAG, Haryana.

VINOD S. BHARDWAJ, J.

The present writ petition has been filed invoking the writ jurisdiction of this Court challenging the decision of the respondent-authorities withdrawing the personal security from the petitioner with a further prayer seeking issuance of directions to official respondents to restore the security cover and to provide the same by preferably deploying the Central Para-Military Forces.

2. Briefly summarized the facts of the instant case are that the petitioner, who is an Advocate by profession and is based in Tehsil Hansi, District Hisar claims to be working on the issues of 'Dalit Rights' for several years. He claims to represent Dalit victims of atrocities across Courts in Haryana as well as before this Court. It is claimed that the petitioner has been recommended and awarded for his strenuous efforts by several social

Organizations. It is also claimed that the petitioner has been counsel for the Dalit victims in Mirchpur incident and has been representing Dalit victim in various other high profile matters such as Dabra Gang Rape Case, Jind Bania Khera Dalit student rape and murder case, Bhatla case, Kulana murder/suicide case, Dolatpur matter, Bagla Dalit Murder matter as well as other 150 matters requiring him to travel throughout the State. A list of cases in which the petitioner claims to be representing such victims has been appended along with the writ petition as Annexure P-1.

3. It is also stated in the writ petition that as a result of the activism of the petitioner, he has been receiving threats and has also been attacked several times by the members of the dominant community in Haryana. He claims to have also been attacked in the Court Complex at Hisar by the miscreants of the dominant community. He also claims to have approached the Hon'ble Supreme Court by filing IA No.11 of 2011 in Writ Petition (Civil) No.211 of 2010. The Govt. of Haryana had provided security to the petitioner along with other witnesses and a temporary police post was created outside his house. About six persons were deputed to guard the petitioner's house. Reference was made to an alleged incident of 2012 which was reported in the newspaper and another incident of 20.04.2014 in Sirsa where the petitioner claims to have been attacked and an FIR No.389 dated 21.04.2014 was registered under Sections 324, 341, 506, 307, 34 IPC at Police Station Sirsa City. No FIR in relation to the alleged incident of 2012 or any other incident prior, however, is placed on record despite allegations. It is also stated that the petitioner had received threats from one Dilawar Singh on his social media account on Facebook qua which a representation was sent to the Superintendent of Police, Hisar on

02.08.2016, however, no action was taken. The representations were thereafter also submitted to the National Commission for the Schedules Castes, New Delhi. However, instead of investigating the same, the security cover provided to the petitioner was also withdrawn by the respondent-State. The petitioner has also alleged that on 18.09.2016, the petitioner was manhandled by C. Pawan Kumar, driver of PCR No.HR-57-2369 and the said issue was also raised with senior officials of the Police Department, however, no action was taken thereon. The petitioner also submitted a representation to the Superintendent of Police, Hisar on 22.09.2016 raising his grievances regarding withdrawal of the security cover and subjecting his family to an increased threat exposure and apprehension. He has alleged that after the withdrawal of the security cover, car of the petitioner was stolen and FIR No.710 dated 30.09.2016 was also registered in this regard. The petitioner also preferred CWP No.24244 of 2016 praying for issuance of a writ in the nature of mandamus directing the respondents to provide security cover from the CRPF/CISF, wherein a specific response was filed by the State on 11.02.2017 taking a stand that there was no threat perception to the petitioner and therefore no security cover was required.

4. That on occurrence of an event in 2017 relating to threat and violence against the petitioner, a fresh application was submitted by him on 15.07.2017 to the Government whereupon one Gunman was provided to the petitioner in March 2018. The CWP No.24244-2016 was thereafter disposed of by this Court vide order dated 08.05.2018 as having been rendered infructuous. However, the aforesaid security cover comprising of one Gunman with a Carbine was withdrawn on 01.07.2018 compelling the petitioner to file the present writ petition.

5. Reply to the petition has been filed by the respondent-State of Haryana, wherein the following stand has been adopted by the State:-

“3. That the representation dated 25.08.2018, Annexure P-22 is concerned, it is submitted that on the representation dated 25.08.2018 (received on 29.08.2018) report of Incharge, Security Branch, Hansi and Deputy Superintendent of Police, Headquarter, Hansi were obtained. It is transpired from the reports that no threat, written or oral, has been received by the petitioner and there is no immediate danger to the life and liberty of petitioner. However, the perusal of the representation, Annexure P-22, transpired that the apprehension of the petitioner is based on mere assumption and presumption and no incident pertaining to threat perception has taken place with the petitioner. It is further submitted that neither there is any threat perception to the petitioner nor the petitioner requires any security cover at present. It is further submitted that previously the petitioner was granted police protection as per the requirement of facts and circumstances at that relevant time, but after the passage of time and change of circumstances, the security cover of the petitioner was reviewed and after considering totality of the facts and changed circumstances, the security cover of the petitioner was withdrawn in compliance of letter dated 26.06.2018 issued by Inspector General of Police, CID, Haryana, Panchkula. True copy of letter dated 26.06.2018 is being annexed as Annexure R-1 for kind perusal of this Hon'ble Court.

4. That the petitioner has made the grant of security as symbol status and the petitioner under the umbrella of security cover has got indulged himself in the criminal activities and committed the breach of peace, tranquility and public peace. The detail of the criminal cases registered against the petitioner is as under:-

Sr.No.	FIR No.	Dated	u/s	Name of Police Station	Remarks
1.	184	04.04.11	323, 452, 506, 34 IPC	City Hansi	
2.	209	16.04.11	147, 148, 323, 324, 506, 307 IPC	City Hansi	Acquitted vide order dated 02.09.16 passed by ASJ Hisar
3.	725	25.10.15	147, 149, 341, 427, 186 IPC 3 PDPP Act	City Hansi	Untraced report prepared on 26.06.16
4.	328	06.05.16	147, 149, 353, 186 IPC	City Hansi	In this case arrested on 15.06.18 and challan filed on 29.08.18
5.	302	14.09.17	389, 153, 153-B, 193, 120-B, 109, 211, 505, 506 IPC	Sadar Hansi	On 02.11.17 joined in the investigation, but challan of the case has yet not been filed
6.	147	02.04.18	147, 148, 149, 323, 342, 427, 506 IPC	City Hansi	On 10.06.18 cancellation report prepared
7.	DDE No.35	17.08.17	182, 211, 120-B IPC	Sadar Hansi	

“It is further submitted that if the petitioner is still adamant to get police protection/security cover as a gunman from police force then the same can be provided to him on payment as per State Government Standing instructions on the subject. True copy of the instructions dated 05.01.2016 is being annexed as Annexure R-2 for kind perusal of this Hon'ble Court.

5. That, earlier the petitioner has filed Civil Writ Petition

No.24244 of 2016 seeking therein direction to grant him police protection in view of threat perception. In compliance with interim order dated 03.02.2017 passed by this Hon'ble Court threat perception of the petitioner was assessed by the Incharge, Security Branch, District Police, Hansi and the then Station House Officer, Police Station City Hansi and on assessment found that there is no immediate danger or threat perception to the life and liberty of the petitioner. However, on 16.03.2018, during the pendency of the petition a gunman was provided to the petitioner, but on 26.06.2018 threat perception was again assessed and after considering the threat perception the police security was withdrawn from the petitioner.

6. That, for illustration, a brief summary of some of the above cited cases, exposing the criminal nature of Rajat Kalsan-petitioner, is as below:-

a) That on 17.08.2017, a complaint of Smt. Minakshi w/o Bijender, Smt. Santosh w/o Dharmbir and Smt. Meera w/o Ramehar, all residents of Bhatla was received at Police Station Sadar Hansi through e-mail for registration of case from the office of the Superintendent of Police, Hansi by which it was alleged that on 14.08.2017, at around Minakshi w/o Bijender, Santosh w/o Dharmbir and Meera w/o Ramehar were present in the main street of Dalit Colony of the village then Udeyveer came there, who was making foul and obscene gesture towards them and hurling filthy abused involving mother and sister in louse noise. On hearing, Mahender and Bijender sons of Sadhu Ram and Ram Mehar S/o Karambir and other persons of the colony came there and they tried to inhibit and exhort Udeyveer and threatened to kill by saying that Jats and Brahmins are with him etc. and further request for legal action was made. On this DDE No.35 dated 17.08.2017 was recorded in the roznamcha of Police Station Sadar Hansi. It is further submitted that verification of facts and contents of the mail was conducted by Inspector Udhey Bhan, Station House Officer,

Police Station, Sadar Hansi. During the course of verification of the facts Smt. Minakshi, Smt. Santosh and Meera were joined in the enquiry and their statements were recorded, who in their statement mentioned about registration of case FIR No.269 dated 15.08.2017 u/s 365, 323, 506, 341, 379A, 34 IPC Police Station Sadar Hansi which was registered on the statement of aforesaid Udeyveer. It has found that from the statement of aforesaid Udeyveer that altercation took place in Sansi Mohala at 6.30 p.m. and during that altercation Smt. Minakshi, and Meera were not present at the place of occurrence. On secret enquiry, it has also been found that on 14.08.2017, in the evening time at about 6.30 p.m. the aforesaid Udeyveer was stopped forcibly in the way at Sansi Colony by Ajay Kumar @ Maiya and others and caused injuries and while after abducting him brought in Jatoni wali gali where inflicted injuries, snatched his mobile, cash and threatened to kill. The brawl was verified. It has also found that in the same very case the accused just to save themselves and to put pressure hatched conspiracy in a well planned manner. Rajat Kalsan-petitioner, Ajay Kumar and Jai Bhagwan prepared the application of the complainants namely Smt. Meenakshi, Santosh and Meera and mentioned the time as 1.00 p.m. instead of 6.30 p.m. which was found false. Further found that the said complaint was dictated by Rajat Kalsan-petitioner on mobile to Jai Bhagwan and Ajay Kumar and application was written by provoking the person in false manner and hatching conspiracy in order to take personal benefit and venom of communalism. It has further found that the accused have committed offence u/s 182, 211, 120-B IPC and in this regard DDR No.14 dated 25.08.2017 was recorded in the roznamcha of Police Station Sadar Hansi and Kalandra to this effect was prepared and filed in the concerned court.

b) That, on 14.09.2017, on the complaint of one Sh. Naresh S/o Sh. Harke Ram, resident of village Bhatla, a case bearing FIR No.302 dated 14.09.2017 u/s 389, 153-A, 153-B, 193, 120-

B, 109, 211, 505, 506 was registered against one Ajay Kumar, Sunil s/o Sube Singh, Jai Bhagwan, S/o Sh. Chandu Lal, Amitabh @ Ballu S/o Sh. Prem Singh, Vikash S/o Jogi Ram, all residents of village Bhatla and Rajat Kalsan-petitioner. It is further submitted that the accused of this case were granted concession of anticipatory bail by this Hon'ble Court vide order dated 29.09.2017 and 13.10.2017 passed in Criminal Misc. No.M-36581-2017 titled as Rajat Kalsan and another Vs. State of Haryana and Criminal Misc. No.M-39121 of 2017 titled as Sunil and others Vs. State of Haryana which has been later on confirmed vide order dated 09.01.2018. It is further submitted that on 02.11.2017, Ajay Kumar, Sunil s/o Sube Singh, Jai Bhagwan S/o Sh. Chandu Lal, Amitabh @ Ballu S/o Sh. Prem Singh, Vikash S/o Jogi Ram, all resident of village Bhatla and Rajat Kalsan-petitioner were joined in the investigation of the case and formally arrested in this case. It is further submitted that this case is still pending investigation and on 14.11.2018, voice sampling of the accused is to be taken by the Director, Forensic Science Laboratory, Madhubabn.

7. That, for illustration, a brief summary of some of the cases relating to village Bhatla incident, is as below:-

i) That, on 16.06.2017, a case bearing FIR No.190 dated 16.06.17 u/s 148, 149, 323, 324, 506 IPC read with section 3(1) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered at Police Station Sadar Hansi on the complaint of Rahul S/o Sh. Polu Ram, Caste SC, resident of village Bhatla, District Hisar on the allegations that on 15.06.2017, at about 5.30/6.00 p.m., he along with Vikas S/o Sh. Suresh, Narsing S/o Sh. Harke Ram and Kuldeep S/o Sh. Dharambir, all caste SC, resident of village Bhatla when to bring water from hand pump installed at power house of the village where Anoop S/o Sh. Ram Phal, Caste Brahman, also came there to bring water. On the issue of turn of filling water a quarrel took place between them.

Anoop Singh started to abuse them in the name of mother, sister and caste and also called telephonically his friends. An altercation took place them in which he (Rahul), Jaimal, Vikas, Amit, Narsing and Kuldeep had received injuries. They were got shifted to Hospital at Hisar and the doctors of General Hospital at Hisar admitted him and Jaimal and remaining were discharged after giving them first aid. After registration of case investigation of this case was initiated by Sh. Narinder Singh, Deputy Superintendent of Police, Hansi. During the course of investigation of the case section 325 IPC and 3(1) C, G, of the Schedule Castes and Scheduled Tribes (P.O.A.) Act, 1989 were added and section 3(v) of the Schedule Castes and Scheduled Tribes (P.O.A.) Act, 1989 was deleted. Thorough and fair investigation of this case has been conducted. During the course of investigation and on the basis of cogent evidence, the following seven by name accused/juvenile-in conflict with law were arrested in this case, on different dates:-

- i. Mahinder @ Amit S/o Jai Kishan*
- ii. Anoop S/o Sh. Ram Phal (Juvenile in conflict with law)*
- iii. Parvesh S/o Sh. Udey Bir (Juvenile in conflict with law)*
- iv. Mohan S/o Sh. Krishan (Juvenile in conflict with law)*
- v. Sunil S/o Sh. Subhash @ Banka*
- vi. Subhash @ Banka S/o Sh. Chander Sharma*
- vii. Ravinder @ Sikander S/o Sh. Rameshwar, all above caste Brahman and resident of Bhatla, District Hisar.*

It is further submitted that during the course of investigation of the case, no incriminatory evidence came against Parvesh S/o Sh. Dalar, Caste Jat resident of village Bhatla as on the date and time of occurrence of incident he was not stated to be present in the village and was away from village. It is further submitted that on 03.08.2017, after concluding investigation challan against the accused was prepared and on 14.08.2017, challan was submitted before the concerned court for adjudication. Similarly report against the

juvenile-in-conflict with law was also submitted before the board. Now the case pending trial.

ii. That after the occurrence of incident dated 16.06.2017 which resulted into registration of case bearing FIR No.190 dated 16.06.2017 u/s/ 148, 149, 323, 324, 506 IPC read with Section 3(1) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 Police Station Sadar Hansi that there was atmosphere of tension among the parties and on 02.07.2017, watchman of village namely Daulat Ram S/o Sh. Chandi Lal, Caste Bawaria, r/o Bhatla conducted proclamation in the village regarding imposing of ban regarding entry of members of SC/ST Caste in the fields of General Category. Ajay Kumar, SC, resident of village Bhatla submitted an application before the Superintendent of Police, Hansi alleging therein that Chander Fauji, Ram Chander S/o Sh. Risala, Sadhu S/o Sh. Ram Singh, Jai Kishan S/o Sh. Pat Ram, Leela S/o Sh. Dhan Singh, Sumeru Pandit and present Sarpanch of village have socially boycotted the member of Scheduled Caste Community and they are not being allowed to enter into the fields for their day to day chords and pursuits and owner of dairy in the village also refused to give milk. As a result of which they did not send their children in schools etc. On the application of Ajay Kumar, a case FIR No.225 dated 10.07.17 u/s 153-A, 34, 504, 505, 506 IPC read with sections 3(1)r, 3(1)(z), 3(1)(za) and 3(2) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered at Police Station Sadar Hansi. It is further submitted that after registration of case initial investigation of this case was initiated by Sh. Narender Singh, DSP and thereafter, vide Superintendent of Police, Hansi's order No.3258-61 dated 13.07.2017 investigation of this case was transferred to Sh. Rajesh Kumar, IPS, Assistant Superintendent of Police, Hansi. It is further submitted that the accused namely Chander Singh Fauji was granted concession of anticipatory bail by the

learned court of Additional Sessions Judge, Hisar vide order dated 18.07.2017. Further, on 19.07.2017, a Special Investigation Team consisting of Sh. Rajesh Kumar, IPS, Assistant Superintendent of Police, Hansi, Inspector Umed Singh, I/C Traffic and ASI Bal Kishan of EOW Hansi was constituted to conduct further investigation of this case. On 22.07.2017, Chander Singh Fauji, accused was joined in the investigation of the case and on having been sufficient and cogent evidence against him, he was arrested in this case. During the course of investigation of the case numerous persons of different caste and category, including watchman namely Daulat Ram S/o Sh. Chandi Lal, Caste Bawari r/o Bhatla by whom alleged proclamation imposing of ban on entry of members of SC/ST Caste in the fields of General Category was conducted, were joined in the investigation by the Special Investigation Team on different dates, but no incriminatory evidence against co-accused namely Ramesh S/o Sh. Gangasha, Sadhu S/o Sh. Ram Singh, Ram Chander S/o Sh. Risala, Jai Kishan S/o Sh. Pat Ram, Leela S/o Sh. Dhan Singh, Sumer S/o Sh. Hardeva and Punit, Sarpanch Representative, S/o Sh. Ram Kumar came on file on the basis of which they could be arrest in this case and it has come on file that the accused-Chander Singh Fauji S/o Sh. Phool Chand, Caste Brahman, resident of village Bhatla at his own had got conducted proclamation imposing ban on the members of SC/ST (POA) community. On this section 34 IPC was deleted in this case. It is further submitted that on 20.08.2017, after concluding investigation challan against accused Chander Singh Fauji, was prepared and on 23.08.2017, the same was presented to face the trial of case u/s 153-A, 504, 505, 506 IPC read with sections 3(1)r, 3(1)(z), 3(1)(za) and 3(2) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. This case is pending trial.

iii. That the contention of the petitioner to the effect that the

persons of dominant communities of village had imposed social and economic boycott upon the families of Scheduled Caste Community residing in the village are concerned, in this regard it is submitted that false and frivolous allegations have been levelled in this regard. It is submitted that no caste or community attack has taken place on the members of Scheduled Caste Community by way of social and economical boycott. Although as a result of incident of dated 16.06.2017, referred above, there was atmosphere of tension among the parties, but no boycott, social or economical, was imposed upon the members of Scheduled Caste and proclamation regarding imposing of ban further regarding entry of members of SC/ST Caste in the fields of General Category was got done by Chander Singh Fauji, accused at his own level and legal action against him for getting conduct proclamation in the village regarding imposing of ban regarding entry of members of SC/ST Caste in the fields of General Category through watchman of village namely Daulat Ram S/o Sh. Chandi Lal, Caste Bawari r/o Bhatla has been taken by registering case FIR No.225 dated 10.07.2017 u/s 153-A, 504, 505, 506 IPC read with sections 3(1)r, 3(1)(z), 3(1)(za) and 3(2) of the Schedule Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 at Police Station Sadar Hansi which is still pending trial. However, the members of both the communities are still having cordial relations as usual and used to come and go in all types of functions like marriages etc. and there is no tension among the parties. It is pertinent to mention here that prompt and timely legal preventive and precautionary action against the erring persons, who have attempted to disturb the peace and harmony among the parties, has already been initiated and for protecting the interest of the Scheduled Caste Community and preventing the atrocity upon them the police has also taken necessary legal action/steps.”

6. Learned counsel appearing on behalf of the petitioner has

vehemently argued that the petitioner is a target of the persons belonging to the dominant community for playing an activist's role for protection of Dalit Rights and that withdrawal of the security cover exposes the petitioner and members of his family to greater threat and danger. Reliance was placed on the incidents noticed above to supplement his arguments. He further contends that it is obligatory for the State to ensure protection of lives of its citizens. Since there is a continuous threat, the security should be restored.

7. *Per contra*, learned counsel appearing on behalf of the State of Haryana has pointed out that the threat apprehension of the petitioner was duly assessed by the Inspector General of Police, CID, Haryana and the security cover of the petitioner was thereafter withdrawn in compliance of recommendation made by the Inspector General of Police, CID, Haryana. He further submits that the petitioner has been abusing the grant of security not only as a status symbol, but also as a means to threaten others and thus commit illegality and violate law. Thereby disturbing public peace and tranquility. Hence, the conduct of the petitioner itself reflects that he is abusing the security cover to his advantage and to unabatedly indulge in criminal acts. As many as seven different proceedings under the criminal law have been set in motion against the petitioner. It is also pointed out that even though the security cover was withdrawn pursuant to the letter dated 26.06.2018 and the matter has remained pending for more than four years after withdrawal of the security cover, however, no untoward incident has ever taken place since then which clearly shows that the recommendation made by the Inspector General of Police, CID, Haryana was well-founded. He also contends that the petitioner himself is a person of mischievous antecedents and has indulged in deliberate mischievous acts to seek security

cover for himself and to abuse security cover to threat other people.

8. I have heard learned counsel appearing on behalf of the parties and have gone through the documents appended along with the instant case as well as the respective submissions advanced by the parties.

9. In order to appreciate the merits of the claim, it is necessary to appreciate the law in relation to extending security cover. Seeking a personal security officer is not a vested right of any person. A person beseeching indulgence of the Court has to make out a strong exception by demonstrating a real and genuine threat. A mere apprehension in the mind of an individual, not supported by any cogent, convincing and reliable material cannot form the basis for the Court to conclude that the assessment of the threat by the State is invalid or that it is based upon incorrect and subjective misappreciation of the material available with them. Besides, there is no incident in the immediate recent past that may strengthen the argument of the petitioner or to impugn the input of the Intelligence Wing.

10. The Hon'ble Supreme Court, while dealing with the matter of **Ramveer Upadhyay v. R.M. Srivastava and others** reported as 2013(7) **Scale 564** held as under:-

“7. However, in our experience, we have hardly seen any security of 'Z' or 'Y' category provided to any ordinary citizen howsoever, grave the threat perception or imminent danger may be to the person concerned. The petitioner, however, has claimed it obviously as a 'privileged class' by virtue of being an ex-minister which at times, may be justified even to an ex-minister or any other dignitary, considering the nature and function of the duties which he had discharged, which could facilitate the assessment of his threat perception even after laying down the office. But what exactly is his threat perception

and whether the same is grave in nature, obviously will have to be left to be decided by the authorities including the authorities of the State or the Centre which may include even the Intelligence Bureau or any other authority concerned which is entitled to assess the threat perception of an individual. But in so far as the Court of law is concerned, it would obviously be in a predicament to come to any conclusion as to whether the threat perception alleged by a person claiming security is grave or otherwise which would hold him entitled to the security of a greater degree, since this is clearly a question of factual nature to be dealt with by the authorities entrusted with the duty to provide security after assessing the need and genuineness of the threat to any individual."

11. While placing reliance on the aforesaid judgment of the Hon'ble Apex Court, a Division Bench of the Allahabad High Court in the matter of **Abhishek Tiwari v. State of U.P. and others** passed in Misc. Bench No.10867 of 2021, decided on 04.08.2021 has observed as under:-

"16. A large number of private persons are being provided personal security. Many would consider it a wastage of taxpayers' money. To a parliamentary question, Minister of State (Home) replied that security for the President, Vice-President and the Prime Minister was provided according to the 'Blue Book'. Though not stated in so many words, it was clear from the context that the security was given ex-officio, that is, by virtue of the offices they held. It was told that Union Ministers, State Chief Ministers and Judges of the Supreme Court and High Courts were provided positional/statutory security cover to facilitate impartial decision-making process. The security arrangements for other political personalities were made after careful assessment of the threats emanating from terrorists/militants/fundamentalists outfits and organized criminal gangs, and that the mechanics of security arrangements was prescribed in the 'Yellow Book'. The degree

of threat varies from individual to individual, depending on factors such as the nature of activities, status, and likely gains for the terrorists, etc. Accordingly, categorized security cover (Z+, Z, Y & X) is provided to them on the basis of gravity of the threat. Thus, threat perception is assessed on the basis of threats emanating from various terrorists, militants, fundamentalists outfits and organized criminal gangs for some work done by the protectees in their public life and, in national interest.

17. A person or political personality cannot claim security on the ground that he faces threats from his enemies because of some private dispute with them. There could not be any dispute about security for the President, Vice-President and Prime Minister, or Union Ministers, State Chief Ministers and Judges of the Supreme Court and High Courts, because they represent the core functioning and authority of the Indian State. There would be other political personalities, who hold public office and might have real threat from the terrorists/militants/fundamentalists outfits and organized criminal gangs for the work done or being done in the interest of nation by such political personality. These persons, on the basis of real threat perception, can claim security at state expense and, if they were to be harmed by such elements, it would affect the prestige of the government and authority of the State and, it would adversely create an impression in the minds of the people that if, the government cannot protect high dignitaries and, the people who work for nation and society, how would it ever protect the common men and, this would lead to the insecurity in the minds of the public in general and diminish the State Authority. It would also make an impact on the decision making process impartially or boldly in detriment to the public and national interest.

18. In a country governed by the rule of law and democratic polity, a class of privileged persons should not be created by

the State. India got its written Constitution in 1950 and, as per the preamble, the goal of the Indian Democratic Republic is to secure justice to all citizens (socially and economically and politically) liberty of thought, expression etc. and equality of status and of opportunity. The State cannot be seen as creating a privileged class in the society as it would amount abdication of the very principle of justice and equality enshrined in the preamble of the Constitution. There may be cases where public interest demand to provide personal security but same should be done in a transparent and fair manner and, the State should be able to justify its decision if the same is challenged in the Court of law.

19. *In the case of M.A. Khan Chaman v. State of U.P., 2004 SCC Online All 373 , it was said that the petitioner, M.A. Khan Chaman was not having a right to enjoy the privilege of security ad infinitum. The Court noted that on flimsily grounds people exercise undue influence and manage to secure gunners and security at State expenses and at taxpayers cost. In fact acquisition of a gunner has begun to be treated as a status symbol. This practice must be brought to an end. It has been further held that the security can be provided to an individual provided it is needed in fact and there is a threat perception to the life of the applicant or any of his family members.*

20. *Case of providing security should be decided objectively by the authority taking into account all relevant factors and security should not be provided merely to enhance the status of the applicant. The competent Authority would be required to review the threat perception from time to time. Whether the applicant would be required to pay the expenses of the gunner or not would depend upon the recommendation of the Reviewing/Assessing Authority.*

21. *A person is entitled to get security as per the Government Order/policy if he comes within the parameters based upon the real threat perception.*

xx xx xx xx

29. As a matter of principle, private individuals should not be given security at State cost unless there are compelling transparent reasons, which warrant such protection, especially if the threat is linked to some public or national service they have rendered and, the security should be granted to such persons until the threat abates. But, if the threat perception is not real, it would not be proper for the Government to grant security at the cost of taxpayers money and to create a privileged class. In a democratic country governed by rule of law and written Constitution providing security at State expense ought not to become an act of patronage to create a coterie of 'obliged' and 'loyal' persons. The limited public resources must be used carefully for welfare schemes and not in creating a privileged class. From a report of Bureau of Police Research and Development (BPR&D), police think tank of the Ministry of Home Affairs (MHA), more than 20,000 additional policemen than the sanctioned strength were deployed in VIP protection duty in the year 2019. As per the report, Data on Police Organizations, 2019, as many as 66,043 policemen were deployed to protect 19,467 Ministers, Members of Parliament, Judges, Bureaucrats and other personalities and, thus number is growing up in every year.

30. In the case of Rajinder Saini v. State of Punjab and others, C.W.P. No.19453 of 2015 relying upon the judgment in the case of Ramveer Upadhyay v. R.M. Srivastava and others (supra), it was observed that the politicians and holders of party offices just to show their might were seeking security and, the same could not be provided merely on asking. If there is actual threat then only concerned authority can consider the case and make recommendation to the Government at their own level for providing security. The Court cannot determine as to whether the petitioner has any threat perception and required security urgently.

31. *In the case of Randeep Singh Surjewala v. Union of India and others, CWP No.13266 of 2016, the Punjab and Haryana High Court denied inclusion of Surjewala's name as a categorized protectee in the Central list in Delhi as there was no specific input regarding threat perception to him, either from any terrorist, militant, outfit or fundamentalist groups."*

12. The reference can also be made to a Division Bench judgment of this Court in LPA No.2165 of 2017, titled as **Jaskirat Singh Chahal Versus State of Punjab and others**, decided on 28.03.2022 in which it was held that in the event the competent authority is convinced that threat has abated, there can be no justification to extend personal security cover at State's expense and personal security cover cannot be claimed as a matter of right for perpetuity. I find myself in respectful agreement with the principles enunciated in the aforesaid judgments by the Hon'ble Apex Court as also noticed by a Division Bench of the Allahabad High Court.

13. The gravity of threat has to be real and not just based upon perceptive apprehension. In the event the competent authority in the State Govt. is convinced that the threat has abated, there can be no justification to extend a personal security cover at the tax payer's expense, only as an act of patronage or as an act aimed to create a coterie of obliged and loyal persons. Limited public resources cannot be deployed for display of eminence and as an attempt to bolster the ego of the recipient of such protection. The satisfaction of the competent authority cannot be over-ruled in absence of any trustworthy, credible and reliable evidence. A Court does not stand as an expert to assess the correctness of the decision of the competent authority and to evaluate the threat, if any, claimed to be faced by an individual. The same has to be left to the wisdom of the competent authority and its

assessment and discretion. This Court, while exercising its jurisdiction under Article 226 of the Constitution of India, cannot substitute its decision for that of the competent authority relating to the threat apprehension entertained a the petitioner.

14. The facts that emanate from the record do not establish any real threat and it seems that the demand for security is more to display it as a symbol of authority and to flaunt his status as a VIP.

15. Despite not disregarding the services offered by the petitioner for a cause, it is held that the same alone cannot be the basis to claim a personal security cover as a matter of right, for perpetuity. The protection however is being used by the petitioner to indulge in criminal acts and to justify claim for protection when the oppressed retaliates. The trap seemingly is laid to create grounds for justification of such security cover.

16. The circumstances of the present case do not support the claim of the petitioner for need of a security cover and it rather supports the stand of the respondent-State that the petitioner is misusing the security cover by indulging in repeated criminal acts. It has also gone uncontroverted that the withdrawal of the security cover was pursuant to an assessment made by the Inspector General of Police, CID, Haryana and that there has been no untoward incident since withdrawal of the security cover. The apprehensions of the petitioner are thus conjectural and pre-emptive and are not supported by any cogent and convincing material.

17. Personal security at State expense would not ordinarily be extended unless there are compelling, cogent reasons warranting such protection. To claim security on the ground that a person has been contesting cases for his clients, which are high stake cannot be solely

considered as a tenable reason and to presume that general law and order or policing does not generate confidence in its ability to protect. There can be no presumption regarding breakdown of the Constitutional machinery in providing adequate security arrangement for its citizens or against a robust mechanism to impart justice. It must also be kept in mind that the police to citizens' ratio is approximately 137 per lakh of population. The quality of policing and larger public welfare shall suffer severe adverse consequences in case police personnel are withdrawn from the active policing and are instead deputed to protect select individuals. With the rise in the crime scenario, maintenance of law and order is a prime concern for the State and any misplaced apprehensions cannot justify compromising the larger security interest of general public.

18. A perusal of the facts noticed above as well as the precedents extracted shows that there is no valid foundation for this Court to come to a conclusion that the assessment made by the Inspector General of Police, CID, Haryana in the year 2018 was without any valid basis or that there is a real threat exposure to the life and liberties of the petitioner. It is rather evident that the petitioner has been misusing the aforesaid security cover indulging in criminal acts showing abuse of State privilege. A perusal of the list of cases mentioned by the respondent-State in its reply also shows that there has been no involvement of the petitioner indulging in criminal activities after the withdrawal of the security which augments the stand of the State. The petitioner has been flaunting the ruse of an activist for committing breach of public peace and tranquility and such efforts of the petitioner cannot be promoted or protected. The Court of law would not step in to throw its weight behind such individuals and to support drain of public

exchequer. There is no evidence to necessitate restoration/extension of the security cover or that the decision taken by the authorities was in bad faith, malicious or mischievous or is not based on tangible, objective and bonafide assessment of intelligence input.

19. The instant civil writ petition is accordingly dismissed, being devoid of any merit.

(VINOD S. BHARDWAJ)
JUDGE

October 17, 2022
seema

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No