

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.1519 OF 2022

Ram s/o Suryabhan Khade
Age : 42 years, Occu: Agri.
R/o. Kharewadi, Post Kharewadgaon
Tq. Ashti, Dist. Beed

... **PETITIONER**

VERSUS

1. The State of Maharashtra
through the Secretary
Home Department, Mantralaya,
Mumbai – 32.
2. The Director General of Police
Mumbai.
3. Inspector General of Police
Aurangabad
4. The Superintendent of Police
Beed.

... **RESPONDENTS**

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Advocate for Petitioner : Mr. N.L. Jadhav
PP for Respondents: Mr. D.R. Kale

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**CORAM : MANGESH S. PATIL &
ABHAY S. WAGHWASE, JJ.**

DATE : 11.04.2023

PER COURT :

Leave granted to correct the nomenclature of the respondent
No.4. Amendment to be carried out forthwith.

2. Heard the learned advocate for the petitioner as also the
learned APP

3. The petitioner who has a threat perception on account of his
initiative taken for setting the criminal law in motion against the Member of
Legislative Council which offence was registered as per the direction of this

Court, is aggrieved by the fact that though earlier he was granted police protection free of cost, while passing a fresh order for its renewal the authorities are insisting for providing of such police protection subject to payment of necessary charges.

4. It is pointed out by the learned Public Prosecutor that the State Government has issued circular dated 03.01.2000 laying down guidelines for providing police protection to private citizens facing threat to life. In addition fresh guidelines have been issued pursuant to the direction in the PIL No.77/2016 on 04.01.2018.

5. We are only concerned with the right of the petitioner who insists for providing police protection free of charge.

Clause 14 of the guidelines dated 04.01.2018 reads as under :

“14. The protection fee shall be calculated in terms of the formula set out hereunder and shall be charged and recovered accordingly from the person to whom the police protection is so granted as setout hereunder. However, the protection fee shall not be charged to such person whose income is below Rs. 50,000/- per month, in terms of his or her relevant Income tax returns. It is also made clear that the total protection fee shall not, in any case exceeds 15% of the gross income, in terms of his or her relevant Income tax returns, of such person to whom the police protection is so granted.”

A bare reading at the clause would demonstrate that once a person is found entitled to have a police protection in terms of the guidelines and the provision of Section 47 of the Bombay Police Act, 1951 the protection fee cannot be charged to a person whose income is less than Rs.50,000/- per month in terms of the relevant income tax returns.

6. When the State in its wisdom has evolved a policy of providing protection free of charge to the persons having less than a specified income, and the income is to be ascertained on the basis of the income tax returns filed by him, in our considered view no discretion lies with the authority or they do not have any leeway in the matters where such protection is to be granted to a persons based on the income tax returns.

7. The learned Public Prosecutor would strenuously submit that the turn over of the petitioner is quite enough to demonstrate his ability to pay the protection fees. True it is that the returns filed by the petitioner demonstrates such a turn over which is beyond Rs.32 lakhs for the year. However, when the guideline 14 itself refers to the income to be ascertained from the income tax return, any inquiry into any other aspect would not be permissible. The authorities would be guided by this clause and cannot refuse to provide protection free of charge to a person whose income tax returns disclose his income to be less than Rs.50,000/- per month.

8. The copies of the income tax return filed by the petitioner which have not be controverted by the respondents shows that his income for the assessment year 2022-23 is just less than Rs.4,80,000/- which comes to just Rs.40,000/- per month.

9. In view of such state of affairs, the insistence of the respondents authorities that they would provide protection to the petitioner only if he pays the protection fees is contrary to the guidelines and therefore illegal.

10. The writ petition is allowed partly. The respondent No.4 is

directed to consider the case of the petitioner for police protection in terms of the guidelines and to the extent of his liability to pay the fees, they shall be guided by the clause No.14 of the guidelines dated 04.01.2018. We direct the respondent No.4 i.e. the Superintendent of Police, Beed to take fresh decision as expeditiously as possible and in any case within three weeks.

(ABHAY S. WAGHWASE, J.)

(MANGESH S. PATIL, J.)