

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**WRIT PETITION NO. 125 OF 2023
WITH
INTERIM APPLICATION (ST) NO. 5596 OF 2023
IN
WRIT PETITION NO. 125 OF 2023**

Rajan Baburao Vichare

.Petitioner

Vs.

The Chief Minister of Maharashtra & ors.

.Respondents

Mr. Nitin Satpute a/w Mr. Deepak Jagdev & Ms Shaila Kanthe,
Advocate, for the Petitioner

Ms A. S. Pai, PP, for the Respondents - State

**CORAM : SUNIL B. SHUKRE AND
ABHAY S. WAGHWASE, JJ.**

DATE : 21 MARCH 2023

P. C.

. Heard learned counsel for the respective parties.

2. The grievance of the Petitioner is that the police security provided to him has been reduced from the set up of 2+2 police constables to 1+1 police constables. According to the learned counsel for the Petitioner, in view of the citation relied upon by the Petitioner, it is necessary that the authority must enhance the security cover provided to the Petitioner and therefore, he submits that it is necessary for the police authority

to restore the police security that was earlier provided to the Petitioner.

3. As rightly pointed out by the learned Public Prosecutor, the matter of police protection is neither a right nor a privilege but is a something which has to be considered by the State of Maharashtra as it's duty the discharge of which must be made in accordance with the perception of the threats realized by the concerned police authority on the basis of the enquiry made by it. In the present case, we find that the matter was referred to the Committee constituted in this regard and the Committee after receiving necessary inputs from the concerned authority found that whatever police protection granted to the Petitioner in the nature of set up of 1+1 police constables is enough and commensurate with the security needs of the Petitioner. The decision so taken by the Committee is the decision of the expert in the field of security and this decision has been taken by the Committee on the basis of material available before it. We find that neither there is a non application of mind on the part of the Committee nor consideration of any extraneous factor unrelated to the subject of providing of police protection to a person like the Petitioner. Therefore, we do not find that the

decision of the Committee can be interfered with.

4. Learned counsel for the Petitioner has relied upon a view taken by the Division Bench of the *Allahabad High Court* in the case of *Hazi Rais Vs. State of U. P.*, wherein the Division Bench of Allahabad High Court has held that there has to be a monthly review by the District Magistrate and S.S.P./S.P. and a three monthly review by the D.I.G. of the region of the security provided to persons other than M.Ps, M.L.As, Ministers and High Court Judges and classified V.I.Ps and the reports are required to be submitted through the Director General of Police to the State Government. No doubt, the above referred directions have been issued by the Division Bench of the Allahabad High Court but it has to be understood that these directions have been issued in the context of the conditions prevailing in the state of U. P. It is nobody's case that the conditions prevailing in the State of U. P. insofar as security of the citizens is concerned, are same as are in the State of Maharashtra. Therefore, in our respectful opinion, these observations would render no assistance to the Petitioner. It must be noted here that in paragraph 16 of the Judgment in the case of *State of U. P. (Supra)*, the Division Bench of the Allahabad High Court has held that a person is entitled to get a

security as per the said Government Orders, proportionate to threat perception. It only means that in the matter of providing police protection, threat perception entertained by the concerned police authority assumes great importance and it also means that if such threat perception is seen by the concerned police authority, the police authority would be required to provide police protection proportionate to the threat perception by the authority. In the present case, police protection commensurate with the threat perception of the police authority has been given which is in the nature of set up of 1+1 police constables, which decision has already been found to be neither illegal nor perverse.

5. There is one more ground raised by learned counsel for the Petitioner. It is that similarly situated M.L.As have been granted more security cover than the Petitioner and the only reason for reducing police protection granted earlier to the Petitioner is that he has refused to toe the line of other M.L.As in joining other faction of a political party, and so, it is submitted that the decision of reduction of police security is illegal.

6. The argument so advanced by learned counsel for the

Petitioner basically alleges malafide on the part of the police authority in reducing police protection granted to the Petitioner earlier. Such ground can be taken by the Petitioner, provided there is some material available on record to support it. But, that is absent here. Of course, the Petitioner has made a specific reference to certain M.L.As whose police protection has been kept intact and as it is. But, Petitioner has not placed any material before us throwing light on the perception of police about threat to life of those M.L.As. It is not known as to what is the material available before the police authority for maintaining same police protection granted to the other M.L.As. On the contrary, in the present case, there is available on record some material which the concerned Committee has duly considered and has accordingly taken the decision on the basis of such material. Therefore, argument advanced by learned counsel for the Petitioner regarding malafides on the part of the police authority or the Committee cannot be accepted.

7. In the result, we find that there is no merit in the Petition and same stands dismissed accordingly.

8. In view of disposal of the Writ Petition, nothing

survives for consideration in the Application, being Interim Application (St.) No. 5596 of 2023 and same stands disposed of accordingly.

(ABHAY S. WAGHWASE, J.)

(SUNIL B. SHUKRE, J.)