

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

261

**CWP-14476-2022
Date of Decision: 16.08.2023**

TALBIR SINGH GILL

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

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

Present: Mr. G.S. Saggi, Advocate for
Mr. A.P.S. Sandhu, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer in the present petition is to grant personal security to the petitioner, who is apprehending danger and threat to his life on account of being an active person in political affairs and in public life.

The petitioner claimed that he is associated with a political party namely Shiromani Akali Dal (B) and has been the General Secretary of Majha Zone of Youth Akali Dal and is also core committee member of Youth Akali Dal. It is claimed that the petitioner has also remained political advisor to Ex-Minister in the Government and has been an Officer on Special Duty to the said Ex-Minister. He also claims to have contested the election for being elected as a Member of Legislative Assembly from Amritsar (South) Constituency. Despite having lost, he has been working hard for the wellbeing of the residents of his constituency. It is contended that the anti-social elements and gangsters have been extending threats to persons who are involved in public life and espousing

public concern and matters relating to the law and order situation in Punjab. The petitioner suspected that he is being followed by anti-social elements and have submitted representations to the Police Authority for providing adequate security. Such representations dated 18.12.2018, 02.04.2019, 03.03.2020 and 02.02.2021 have also been appended alongwith the present petition.

Written statement on behalf of respondents No.1, 3 and 6 i.e. the Secretary, Department of Home Affairs, The Director General of Police, Punjab and the Senior Superintendent of Police (Rural), Mall Mandi, Amritsar has been filed by way of an affidavit of Manavjit Singh, Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural), wherein it has been averred that the office of the Addl. Director General of Police (Security), Punjab had sought a report from respondent No.5 – the Commissioner of Police, Amritsar on 05.07.2022 regarding the threat perception and the same was further forwarded to respondent No.6 - Senior Superintendent of Police, Amritsar (Rural) on 08.07.2022.

A detailed report No.21400/SB dated 06.08.2022 was, thereafter, submitted in the office of respondent No.4 by the Senior Superintendent of Police. It has been reported that the petitioner was provided security cover during the election period as per the norms of the Election Commission of India and the same was withdrawn after his defeat in the said elections. Further, an FIR No.34 dated 30.03.2022 had been got registered by the petitioner under Section 336 IPC read with Section 25 of the Arms Act, 1959 at Police Station Kamboj Amritsar (Rural) against certain unidentified persons. As per the report, there was no threat or letter received by the petitioner from any terrorist, separatist organizations or gangsters before or after registration of the FIR and that a discrete inquiry was also conducted as per which no threat perception has

been found. It was thus recommended that there was no occasion to provide any kind of police security to the petitioner.

The abovesaid report had been appended by the respondent alongwith their reply dated 08.08.2022. No response/rejoinder to the same has been filed by the petitioner till date. Hence, the response filed by the respondents remains uncontested/uncontroverted.

A Division Bench of this Court in the matter of “Jaskirat Singh Chahal Versus State of Punjab and others” bearing LPA No.2165 of 2017 decided on 28.03.2022 has held as under:

“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 the apprehension to be real and genuine. The 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 perception by the State is invalid or that it is based upon incorrect and subjective mis-appreciation of the material available with them. Besides, there is no incident in the recent past as may strengthen the argument of the appellant to impugn the input of the Intelligence Wing.

The Hon'ble Supreme Court, while dealing with the matter of Ramveer Upadhyay Versus 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.”

*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 Versus 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 interests 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.”*

We find ourselves 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.

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 State'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 ignored in the 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, faced by an individual. The same has to be left to 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 pertaining to the threat apprehension entertained by the appellant. 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 an authority of symbol and to flaunt his status as a VIP. This practice of creating a privileged class on the State's expense, by using the taxpayers' money has to be deprecated.

While recognizing the exemplary services rendered by the appellant at the time of unrest, it is held that the same alone cannot be the basis to claim a personal security cover as a matter of right, for perpetuity and despite no apprehension assessed by State on the basis of its intelligence input.”

Evidently, there is no material or objective evidence on the basis whereof it may be held that the apprehension of the petitioner is well-founded and that the threat is real. Any perceptive apprehension supplemented by a self serving statement, which has been enquired into and found misplaced, cannot lay ground for directing protection at public expenses. Security as a means to impress authority and importance cannot be provided as a matter of right.

In view of the above, I do not find that sufficient circumstances exist corroborating the apprehension expressed by the petitioner.

The present petition is accordingly dismissed at this stage.

AUGUST 16, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No