

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRWP-6052-2023 (O&M)

Reserved on: 06.12.2023

Pronounced on: 12.12.2023

Raghvir Singh

... Petitioner(s)

Versus

State of Punjab & others

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Rajvir Singh, Advocate
for the petitioner(s).

Mr. Sinish Girdhar, AAG, Punjab.

ANOOP CHITKARA, J.

1. Seeking protection to his life and liberty at the hands of respondents no.4 to 8, who by misusing their powers threatening the petitioner, who is sole witness in FIR No.14 dated 13.9.2022 under Section 7 of the Prevention of Corruption Act, 1988, Police Station Vigilance Bureau, Phase-1, Mohali registered against respondent no.6, has come up before this Court by filing the present writ petition under Section 226 of the Constitution of India.

2. Petitioner's counsel submits that the petitioner is apprehending threat to his life at the hands of respondents no.4 to 8 namely Sunil Kumar Sharma, SHO, Sikander Singh, ASI, Som Nath, ASI, Hardeep Singh (Driver) ASI and Karnail Singh, ASI, respectively, who are misusing their powers, because in case FIR No.14 dated 13.9.2022 under Section 7 of the Prevention of Corruption Act, 1988, Police Station Vigilance Bureau, Phase-1, Mohali lodged by one Balbir Singh against respondent no.6, the petitioner is the only witness and in order to take revenge, they are trying to implicate him in false case. They had implicated him in FIR No.281 dated 22.9.2023 under Section 304 IPC Police Station Kharar, District SAS Nagar without any rhyme or reason, and there is apprehension that he will be implicated in more cases.

3. On 21.9.2023, this Court had issued notice to the official respondents

4. State has filed reply by way of affidavit of Senior Superintendent of Police (Rural), District SAS Nagar, the relevant part of which reads as under:-

"7. That after inquiry, the then SP (Rural), SAS Nagar had made recommendation for filing of complaint dated 14.11.2022 received from Balbir Singh, with the finding that no threat perception was reported to Balbir Singh as per the report obtained through SHO, Police Station City Kharar. Further for substantiating his allegations that his son Akash Deep Singh and his co-accused persons were picked by the police on the intervening night of 03/04.11.2022 and thereafter, implicated falsely in case/FIR No.320 (supra), he has placed reliance on the photographs/video clip which shows presence of Akashdeep Singh and his co-accused persons in police lock up at Police Station City Kharar at 6.45 a.m. on 04.11.2022 i.e. prior in time to registration of case/FIR no. 320 (supra) i.e. 7 p.m. on 04.11.2022.

However, as per version contained in the case/FIR No. 320 (supra) and the statements of police officials related with said case/FIR, the said photographs/video clip are seemingly tampered one and for verification of said photographs/video clip earlier Balbir Singh has taken time to produce the device used for capturing the said photographs/video clip and thereafter, stated that the said device belong to his friend Raghbir Singh (present petitioner) who on verification has further stated that he has lost his I-phone used for said photographs/video clip. In absence of the device, the authenticity of photographs/video clip could not be verified from FSL. Besides accused Ishant Khanna was found involved in three more cases under NDPS Act and one case of theft. Since all the accused persons are on bail, therefore, no prejudice would result to them if the investigation in the matter is taken to its logical conclusion and thereafter, the report under Section 173 (2) Cr.P.C. is presented before the Ld. Competent Court. Since all the accused persons are on bail no prejudice would result to them in facing trial. The admissibility of the above said photographs/video clip on which it was captured would be a debatable issue at the trial, for addressing which the accused persons would be given a fair opportunity in their defence. As such no further action is warranted on the complaint received from Balbir Singh. The recommendation made was approved by SSP, SAS Nagar on 24.02.2023.

8. That additionally, case/FIR No. 86 dated 14.03.2023 under Section 457/380/120-B IPC (offence under Section 411/413/201 IPC added later on) was also reported to be registered against Ishant Khanna for causing destruction of police file of case/FIR No. 320 (supra) for obtaining benefit in that matter.

9. That since the complaint dated 14.11.2022 made earlier by Balbir Singh with SSP SAS Nagar, was filed after inquiry on 24.02.2023 and it did not yield desired result for him, therefore, now he has got filed the present complaint dated 25.04.2023 through his friend Raghvir Singh (present petitioner), on the fresh allegations as regards threats received telephonically on 24.04.2023 by the present petitioner from mobile No. 99154-23655 on the mobile No. 9988247179 of his mother Baljit Kaur, to not to depose against ASI Som Nath in the trial proceedings arising out of case/FIR No. 14 (supra) registered against him with Police Station Vigilance Bureau SAS Nagar, failing which he will be eliminated.

10. That however, during inquiry the allegations made by present petitioner also remained unsubstantiated as have been the allegations leveled previously by Balbir Singh. From the application form and call detail record of mobile no. 99154-23655 obtained from the concerned telecom company, it came on record that the said mobile number has been issued in the name of one Mukesh Kumar resident of VPO Dak Kala, Police Station Barth, District Jumai, Bihar presently residing at House No. 3624, Ward No. 12, Kharar. As a matter of consequence, he was joined in inquiry and from his statement recorded it transpired that from last six months the said mobile number is being used by his differently abled sister Asha Kumari, who on inquiry made similar statement as has been got recorded by her brother Mukesh Kumar and further clarified that she has no knowledge about mobile No. 998247179 (mobile number of Baljit Kaur, mother of present petitioner Raghvir Singh) and has not given any threat to anyone at any point of time from her aforesaid Mb.99154-23655. The CAF form of the said number his annexed as R- 2/T.

Further as per call record also only one call was found to have been made from mobile No. 9915423655 on mobile No. 9982247179 of Baljit Kaur mother of present petitioner on 24.04.2023 at around 13:58:21 hrs, which lasted for 182 seconds approximately. No call prior in time or subsequent thereto was found exchanged between the said numbers. As such, the call received on mobile No. 9982247179 from mobile No. 9915423655 was found made inadvertently. Moreover, since the petitioner has not annexed with the petition the alleged conversation (stated in Para No. 8 of the petition) recorded between petitioner, ASI Sikander Singh and the SHO Police Station City Kharar as regards falsity of case/FIR No. 320 (supra), therefore, in the absence thereof, the allegations leveled remains unsubstantiated. Besides, as per the call detail analysis of aforesaid mobile No. 9915423655, no call was found made or received on said number from ASI Som Nath.

11. That apart from the above, it has further come to light that the two case/FIRs under NDPS Act and one for offence under Section 304 IPC is registered against the present petitioner. Similarly, one case/FIR under NDPS Act and one under Section 304 IPC is registered against the friend of the petitioner namely Balbir Singh. Besides, one more fresh case/FIR has been registered against Ishant Khanna alias Ishu for offence of theft. The details of the case/FIRs registered against the petitioner, his friend Balbir Singh and accused persons in case/FIR No. 320 (supra) are annexed herewith as Annexure R - 2 / T for the kind consideration of this Hon'ble Court.
12. That from the aforesaid facts and circumstances, it is evident that the allegations leveled by petitioner were not substantiated during inquiry conducted by SP (Rural), SAS Nagar. Furthermore, the Vigilance Bureau, SAS Nagar and District Police, SAS Nagar both are separate units. As such the matter of case/FIR No. 14 (supra) registered with Police Station Vigilance Bureau, SAS Nagar against ASI Som Nath is separate and has no connection with case/FIR No. 320 (supra) registered against Akashdeep

Singh son of Balbir Singh i.e. friend of present petitioner and his co-accused persons. False allegations are being leveled against the police officials in order to obtain some favourable order from this Hon'ble Court.

13. That it is Pertinent to mention here that the Respondents no 4 to 6 have been already transferred from PS City Kharar and there was no occasion for them to extend threats.”

5. Respondents no.4 to 6 stand transferred from Police Station City Kharar and in view of the reply filed on behalf of the State, it appears that there is no such threat perception to the petitioner, however, considering the serious nature of allegations, if the allegations of apprehension of threat to life turn out to be true, it might lead to an irreversible loss. Thus, in the facts and circumstances peculiar to this case, it shall be appropriate that the concerned SHO ascertains the threat perception to the petitioner by personally interacting with the petitioner within two days from today and in case he finds threat perception to be genuine, then he shall provide appropriate protection to the petitioner for one week from today. However, if the petitioner no longer requires the protection, then at his request, it may be discontinued even before the expiry of one week. After that, the concerned officer shall extend the protection on day-to-day analysis of the ground realities or upon the oral or written request of the petitioner. The concerned SHO shall also provide him protection on the date of deposition before the trial Court and shall ensure his appearance in trial Court well before time and his safe return. Petitioner shall communicate to the SHO concerned the date of deposition before the trial Court well in advance at least one day in advance.

6. This protection is subject to the stringent condition that from the time such protection is given, the petitioner shall not go outside the boundaries of the place of residence, except for medical necessities, to buy household necessities, and for bereavements in the families of the close relatives or close friends. This restriction saves the petitioner from apprehended risk and ensures that the protection is not flaunted.

7. It is clarified that there is no adjudication on merits and that this order is not a blanket bail in any FIR. It is further clarified that this order shall not come in the way if the interrogation of the petitioner is required in any cognizable case. It shall also be open for the petitioner to approach this Court again in case of any fresh threat perception.

8. ***This order shall eclipse after fifteen days from today.*** In case the petitioner still apprehends any threat, it shall be permissible for him to take appropriate legal remedies.

9. *There would be no need for a certified copy of this order, and any Advocate for the Petitioner and State can download this order and other relevant particulars from the official web page of this court and attest it to be a true copy. The concerned officer can also verify its authenticity and may download and use the downloaded copy for immediate use.*

Petition is allowed to the extent mentioned above. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

December 12, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes