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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-10319-2023
Date of decision: 19.10.2023

NARINDER SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Hardik Ahluwalia, Advocate
for the petitioner.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ, order or direction especially in the nature of mandamus directing respondents No.1 to 3 to protect the life and liberty of the petitioner, which is endangered at the hands of respondents No.4 and 5 and to take necessary legal action on representation dated 13.10.2023 (Annexure P-1) given by the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner has a dispute with his brother i.e. respondent No.4 and in May, 2023, respondents No.4 and 5 had beaten up the petitioner and his wife, regarding which a complaint was also filed before the learned Illaqa Magistrate but now both the sons of the petitioner, who are settled in Australia and Canada are coming back to India as the marriage of the elder son of the petitioner, namely, Inderpal

Singh is fixed for 26.12.2023 and there is an apprehension that respondents No.4 and 5 can implicate both the sons of the petitioner into false cases. He further submitted that to this effect, representation dated 13.10.2023 (Annexure P-1) was also given to respondent No.2-Senior Superintendent of Police, Gurdaspur, but no action has been taken in this regard and therefore, direction may be issued to the Senior Superintendent of Police, Gurdaspur for taking action on the aforesaid representation and to protect the life and liberty of the petitioner and his family.

3. I have heard the learned counsel for the petitioner.

4. On the face of it, the present petition appears to be an abuse of the process of law. Firstly, such a prayer seeking a writ in nature of mandamus under Articles 226/227 of the Constitution of India would be maintainable only when a representation/complaint is filed to any appropriate authority and in case the grievance is not redressed, then only a writ in the nature of mandamus is maintainable. However, such a representation or a complaint has to be there and some reasonable time must have been elapsed. However, a perusal of Annexure P-1 would show that the aforesaid representation was sent to the Senior Superintendent of Police, Gurdaspur on 13.10.2023 by way of registered post, whereas the present petition has been filed on 17.10.2023 and it is also not clear as to whether such a representation/complaint has reached the office of the Senior Superintendent of Police, Gurdaspur or not but in haste, the present petition has been filed by the petitioner. Therefore, the present petition itself is not maintainable.

5. Secondly, the grievance of the petitioner is that in future when his sons are scheduled to come to India for the aforesaid purpose, then there is

likelihood that they may be implicated in false cases, such a prayer for issuance of direction against aforesaid apprehension is totally vague and no such writ can be issued under Articles 226/227 of the Constitution of India in that regard.

6. In para No.9 of the petition, the petitioner has so stated that he has given a representation to respondent No.2-Senior Superintendent of Police, Gurdaspur by way of registered post on 13.10.2023 vide Annexure P-1 but no fruitful action has been taken by the police. However, the present petition has been filed on 17.10.2023. At that point of time when the petition was filed, even the representation by way of registered post might not have reached the office of the concerned police officer. Therefore, this Court is of the view that such kind of petition wherein especially the prayer is for issuance of a writ in the nature of mandamus is not maintainable.

7. Consequently, finding no merit in the present petition, the same is hereby dismissed.

19.10.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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