

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CWP-4274-2024 (O&M)
Date of decision: 29.04.2024

Khem Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

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

Present :- Mr. Amandeep Singh Rai, Advocate for the petitioner.

Ms. Harpriya Khaneka, DAG Punjab.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for issuance of directions to the official respondents to provide adequate security to the petitioner, who is a complainant/injured and has suffered 5 grievous injuries on his legs, arms and shoulders, so as to enable him to testify before the Court in a free and fearless manner. Further prayer is for directing the respondents to take appropriate steps to ensure the arrest of accused-Gurvinder Singh/respondent No.5, who has been declared as a proclaimed offender.
2. Learned counsel for the petitioner vehemently contends that an FIR No.183 dated 17.11.2016 was registered under Sections 307, 341, 323, 325, 326, 148, 149 120-B IPC and under Sections 25, 27 of the Arms Act, 1959, at Police Station Samana, District Patiala, on the complaint of the petitioner (herein) and that as per the MLR, the petitioner has received

multiple fractures in the above said incident. He submits that vide order dated 08.05.2017, charges were framed under Sections 148, 307 read with 149, 326, 325, 323 and 341 IPC. It is further averred that due to the influence of the accused person(s), on conclusion of the investigation, the final report under Section 173 Cr.P.C. was filed with respect to only five accused. An application was thereafter filed under Section 193 Cr.P.C. by the prosecution, wherein vide order dated 06.06.2017, all the named accused persons were ordered to be summoned by the Additional Sessions Judge, Patiala. The said order of summoning was challenged by the accused persons by way of filing CRR-2505-2017 which was dismissed vide order dated 25.04.2018. Subsequently, vide order dated 28.03.2022, accused-Gurvinder Singh/respondent No.5 was declared as a proclaimed offender by the Additional Sessions Judge, Patiala. It is submitted that the said Gurvinder Singh is roaming freely in the area and that he is having a political background due to which the Police is not taking appropriate and effective steps to ensure his arrest. A representation dated 03.11.2023 was accordingly sent by the petitioner to the Senior Superintendent of Police, Patiala for taking effective steps to ensure the arrest of said Gurvinder Singh.

3. Learned counsel for the petitioner contends that on account of aforesaid person having become a proclaimed offender and having not been arrested, the petitioner apprehends threat to his life and liberty and he is not in a position to testify before the Court in the ongoing trial. He thus submits that protection be extended to him.

4. A status report by way of affidavit dated 01.04.2024 of Neha Aggarwal, PPS, Deputy Superintendent of Police, Sub-Division Samana,

District Patiala, had been filed and a copy thereof had been furnished to the learned counsel for the petitioner.

5. While the aforesaid aspect had not been disputed, it is averred that during the course of investigation, challan was filed only against five persons and the remaining persons were thereafter summoned by the Additional Sessions Judge, Patiala. Learned State counsel submits that 09 persons other than the proclaimed offender were released on bail in compliance to the order dated 17.11.2018 passed by this Court. It is also informed that a Special Investigation Team was also constituted by the Senior Superintendent of Police, Patiala, comprising of Superintendent of Police (Investigation), DSP (Investigation) and SHO, PS Sadar Samana, District Patiala, and that a report has been submitted by the SIT and as per the report, during investigation 09 persons were found to be innocent and Section 307 IPC was also recommended to be deleted. On the basis of the said report of SIT, a supplementary challan was filed and that offence under Section 307 IPC already stands deleted from the charge-sheet. Against the deletion of the said offence, CRR-209-2024 has been filed by the petitioner, wherein the trial has been ordered to be kept in abeyance vide order dated 07.02.2024. It is further averred that the application submitted by the petitioner against Gurvinder Singh was inquired into by the Police and statements of various persons were recorded and it was informed that Gurvinder Singh is not residing there and is residing abroad. Raid was conducted on the house of the Gurvinder Singh but he was not found present there and the statement of various persons were recorded as per which he has not returned to his village Sadarpur. The Police have already taken steps to

collect passport details of Gurvinder Singh and a letter has been written to the Regional Passport Office, Chandigarh, so that appropriate proceedings under the Passport Act could be initiated. It was also pointed that there was no evidence oral or documentary to prove that the petitioner has any threat from the accused persons and that if any representation is received from the petitioner, the same shall be considered in accordance with law.

6. Even though the copy of the aforesaid status report had been furnished to the learned counsel for the petitioner for his perusal and for his counter affidavit, if so, but no such counter was filed.

7. Having heard the learned counsel appearing on behalf of the respective parties and have gone through the documents available on record.

8. It is evident that the apprehension expressed by the petitioner was solely on account of one of the accused-Gurvinder Singh/respondent No.5. It has come forth that the said Gurvinder Singh is not residing in the said village. Moreover, there is no pleading or evidence on the file on the basis whereof it cannot be held that there is any intimidation being extended to the petitioner by any of the accused persons. It is not in dispute that all the accused persons were granted bail in the year 2018 and a period of more than 06 years has been elapsed since then. There is no overt act of commission or omission on the part of the accused in threatening or intimidating the petitioner in any manner whatsoever against him testifying before a Court of law. Hence, there is no documentary or oral evidence on the basis of whereof the apprehension expressed by the petitioner can be said to be corroborated by any objective material.

9. Under the given circumstance, the apprehension which is bereft

of any corroborative material to support the validity of an apprehension expressed by the petitioner, a direction for providing Police security cannot be issued at this stage.

10. The petitioner shall be at liberty to approach the respondent-authorities, in the event being threatened by supplying with any material which would substantiate his apprehension as regards security.

11. Needless to mention that in the event of any such material being produced before the State authorities, appropriate steps in accordance with law shall be taken and the allegations/apprehensions expressed by the petitioner shall be looked into and steps for ensuring safety shall be initiated.

12. The petition is accordingly disposed of.

29.04.2024

Mangal Singh

(VINOD S. BHARDWAJ)
JUDGE

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