

2024:PHHC:118235



**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

231

CRWP No. 2772 of 2024 (O&M)**Date of decision : 10.09.2024****Devinder Rajput****...Petitioner****Versus****State of Punjab and others****...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Onkar S. Batalvi, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab
for respondent Nos. 1, 3 and 4.

Mr. Satya Pal Jain, Addl. Solicitor General of India with
Ms. Saigeeta Srivastava, Advocate
for respondent No. 2. Union of India.

MANISHA BATRA, J. (Oral)

1. The present petition has been filed by the petitioner under Article 226 of the Constitution of India for issuing direction to the respondents to protect the life and liberty of the petitioner and his family members by providing adequate security.

2. Brief facts of the case are that the petitioner, who is an Advocate by profession, claims himself to be the President of Punjab Legal Cell of a political outfit i.e. Shiv Sena. He also claims to be the Legal Advisor of Shri Hindu Takth, Punjab. It is submitted by the petitioner that he had contested Punjab assembly elections in the year 2022 from Patiala as a candidate of the aforesaid political party, due to which many anti-social elements had nurtured personal grudge against him. It is alleged by the petitioner that on 10.09.2022, when he was travelling to Chandigarh, his car was stopped and attacked. Even

2024:PHHC:118235



the recce of his house was done several times, which was recorded in the CCTV cameras installed therein. He had even got ransom calls, for which, he had got registered an FIR bearing No. 22 dated 03.02.2023, under Sections 387, 120-B of IPC at Police Station Kotwali Patiala. Since he was getting continuous threats and ransom calls from different unknown Whatsapp numbers claiming to be the part of terrorist organizations and gangster groups, he had given complaints to the police as well as cyber cell. The petitioner has placed on record a cutting of a news article, published on 05.10.2022 in Punjab Keshri, wherein he is shown to have made a statement against a person calling Punjab Government to take action against said person as according to the petitioner, the activities of said person can disturb the peace of the State.

3. Due to aforesaid claims made by the petitioner with regard to threat to his life and liberty, respondent No. 4-Senior Superintendent of Police, Patiala had provided him a gunman for his protection. However, it is submitted by the petitioner that the said gunman often proceeds on leave, which leaves him unprotected and it was in this backdrop that two gun shots were fired upon him and his car was vandalized by some unidentified assailants and in this regard, an FIR bearing No. 30 dated 08.02.2024 was registered under Sections 458, 427, 148, 149 of IPC at Police Station Kotwali Patiala. It is, thus, urged by the petitioner that appropriate directions be issued to the respondents to protect the life and liberty of the petitioner as well as his family members by providing adequate security round the clock as well as the security escort.

4. Notice of motion was issued on 01.04.2024 to the respondents and vide order dated 31.05.2024, the State authorities were directed by this

2024:PHHC:118235



Court to assess the threat perception faced by the petitioner and to consider the communication received from Union of India and act accordingly, in accordance with law.

5. In response to notice, the respondent-State has filed short reply dated 30.04.2024, which is available on record. As per reply, the petitioner had been provided with one Gunman for the last one and a half year with AK-47 but he had been insisting to provide 02 Gunmen IRB/Commando and had also sought one escort Gypsy and 05 Gunmen IRB/Commando. It is also submitted that the petitioner was willing to contest Lok Sabha Elections, 2024 and had filled nomination as a candidate of the aforesaid party and as per guidelines of the Election Commission of India, he would be provided with adequate security. Apart from this, a patrolling vehicle, PCR and upgraded KIA Carens vehicle, provide by the State Government had also been deputed nearby the house of the petitioner and he has been provided contact number of SHO and MHC of the concerned police station so that he can immediately contact them in case of any emergency. However, it is submitted in reply that at present, no threat perception was found to the petitioner.

6. In compliance with direction given by this Court on 30.07.2024, learned State counsel has filed the status report dated 30.08.2024, as per which, two police officials, i.e. ASI Palwinder Singh, No. 1141/PTL laced with AK-47 along with two magazines having 50 cartridges and ASI Jaswant Singh, No. 207/PTL laced with Carbine along with one magazine having 35 cartridges have been deputed permanently with the petitioner and they perform their duties in shifts of 24 hours with the consent of the petitioner.

2024:PHHC:118235



The statement of the petitioner affirming the aforesaid facts has also been attached with the status report.

7. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

8. As per claim of the petitioner, he is a practising lawyer in District Patiala and he is also a member of the Bar of this Court. He had contested Punjab assembly elections in the year 2022 and also the Lok Sabha elections this year. He has mentioned an incident of attack upon him, which took place on 10.09.2022, when he was coming to Chandigarh in his car. He has alleged some instances of recce being done at his house in Patiala and receiving of some ransom calls. As per petitioner, since he had made certain remarks against an extremist, who is active in Punjab, he was facing threat to his life and liberty. Even two shots were fired upon him and his car was vandalised due to aforesaid reasons. With regard to aforesaid incidents, he had got registered aforesaid two FIRs at the local police station. As reflected from the record, though as per respondent-State, no threat was found to the petitioner but still as an interim measure, the petitioner has been provided 24x7 hours security cover as two police officers of the rank of Assistant Sub Inspector, along with advance arms and ammunition, have been deputed with him in order to protect his life and liberty. However, still the petitioner is demanding a Gypsy escort having at least 05 Gunmen IRB/Commando for his protection. The question that arises before this Court for consideration is as to whether there is/was any real threat to the life and liberty of the petitioner to the extent, which warranted the State-authorities to provide him personal security round the clock along with an escort gypsy?

2024:PHHC:118235



9. A perusal of the record shows that the respondent-State has filed reply dated 09.07.2024, which is on record. In reply, it is submitted that a letter dated 30.04.2024 was received from the Ministry of Home Affairs in the office of the Superintendent of Police, Patiala, which was marked to Superintendent of Police, City Patiala to assess the threat perception to the petitioner. Thereafter, a detailed and thorough enquiry was conducted in the matter and it was found that no threat was received by the petitioner. However, still, two police officials were deputed for the safety of the petitioner on temporary basis, subject to review as per provisions of the State Security Policy, 2013. During enquiry, it was also found that the petitioner was involved in three FIRs but as per replication filed by the petitioner, he stood discharged in FIR No. 13 dated 14.01.2023, registered under Sections 420, 468, 471 and 120-B of IPC at Police Station Chanakyapuri, New Delhi.

10. It would be relevant to mention here that in our country, a large number of persons are being provided personal security, including the President, Vice-President, the Prime Minister, Union Ministers, State Chief Ministers and Judges of the Supreme Court and High Courts and several other dignitaries, who have been provided with positional/statutory security cover to facilitate impartial decision-making process. Undoubtedly, the degree of threat varies from individual to individual, depending on the factors such as the nature of activities, status and activities, the persons are indulged in. There could not be any dispute about the security for the aforementioned dignitaries, who hold offices of high repute and represent core functioning of the nation. Thus, as a matter of practice, the threat perception is assessed on the basis of threats received from terrorist groups, militants, extremist, fundamentalists or

2024:PHHC:118235



organized criminal gangs for some work done by the person(s) in their public life and in the interest of nation and public at large. However, on a bare perusal of the entire petition, it is revealed that the petitioner has nowhere mentioned as to from which person, gangster or terrorist, he has been receiving threat to his life and liberty and as to why because he was not the only person, who had contested the aforesaid elections in the State of Punjab or had made any statement against any extremist. Except for an incident, which had happened on 10.09.2022, when he was travelling to Chandigarh in his car and was allegedly stopped and attacked by some unknown assailants and that his car was vandalised by some unknown persons, there is nothing on record to support the claim of the petitioner for providing him security as sought by him. So far as the plea of the petitioner regarding receiving ransom and threat calls from unknown persons on his Whatsapp number is concerned, again this allegation lacks specificity. On a perusal of Annexure P-3, which is copy of the complaint given by the petitioner to Cyber Crime with regard to threat calls received by him, it is revealed that he had mentioned some mobile numbers, from which he had allegedly received threat calls, and that some terrorists had entered into his house and had written some pro-terrorism slogans on the flex board. Obviously, these claims needed a thorough assessment by the authorities concerned and as per reply filed by the respondents, during enquiry conducted by the police authorities, these allegations were taken into consideration and it was concluded that no threat perception was found to the petitioner.

11. In a country, like ours, governed by the rule of law and democratic polity, a class of privileged persons should not be created by the

2024:PHHC:118235



State. The State cannot be seen as creating a privileged class in the society as it would amount to abdication of the very principle of justice and equality enshrined in the preamble of the Constitution. In ***M.A. Khan Chaman Vs. State of U.P., 2004 SCC Online All 373***, it was observed that on flimsy grounds, people exercise undue influence and manage to secure gunners and security at State expenses and at taxpayers cost. In fact, acquiring a gunner has begun to be treated as a status symbol. This practice must be brought to an end. In ***Hazi Rais Vs. State of U.P. and others, 2006 SCC OnLine All 621***, it was observed that undoubtedly, need to provide security to every individual/citizen by the State is imperative. The State is under obligation to protect the life, liberty and property of its citizens and any apathy in the matter is to be ridiculed. It was also observed that the demand for security was not as much for the personal security but had ripened into a status symbol and is enjoyed not as cathedral but as casino and, therefore, it would be the duty of the high powered committed to review the security arrangements in a most objective, bona fide and honest manner. In ***Rajinder Saini Vs. State of Punjab and others***, CWP-19453-2015, decided on 16.09.2015 by this Court, 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. What exactly is threat perception and whether it is grave in nature, obviously will have to be left to be decided by the concerned authority. The Court cannot determine as to whether the petitioner has any threat perception and requires security urgently.

2024:PHHC:118235



12. As a matter of principle, private individuals should not be given security at the expenses of State, until and unless it is found by the competent authority that there were compelling circumstances, which warrant such protection, especially if the threat is linked to some public or national service such persons 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. The limited public resources must be used carefully for welfare schemes and not in creating a privileged class. Punjab, a strategically important border state in northern India, shares a significant boundary with Pakistan, which has led to a range of complex challenges to it. The proximity to the international border has unfortunately subjected Punjab to various illegal activities, including drug and arms smuggling. The smuggling networks exploit the border's vast and often challenging terrain, contributing to an influx of narcotics and weaponry that exacerbate local law enforcement issues and social problems. This situation has strained the state's resources, prompting heightened security measures and ongoing efforts to curb these threats, while also addressing the broader socio-economic impacts on the region's communities. In order to curb these issues, the State needs the services of its police officials/officers at its best for the betterment of its people and for maintaining law and order. The role of the state police is fundamentally centered on maintaining peace, law, and order within society, ensuring the safety and security of the public at large. It is not the responsibility of the police to provide personal security to individuals, including those who may be ambitious or prominent, unless there is a credible

2024:PHHC:118235



threat to their safety. Public resources like law enforcement must be allocated judiciously, focusing on the overall welfare and protection of society, rather than being diverted for the personal security of individuals with specific agendas. When personal security is required, it should typically be arranged through private means unless the individual in question is facing verifiable, extraordinary threats that warrant state protection in accordance with legal guidelines.

13. As observed in *Rajinder Saini*'s case (supra), this Court, while exercising writ jurisdiction under Article 226 of the Constitution of India, cannot substitute its decision to the decision of the competent authority in respect of threat perception of the petitioner to his life and liberty or that of his family members. In *N. Jothi vs. The Home Secretary, Government of Tamil Nadu (2006)*, Madras High Court, while deciding the case of a Rajya Sabha member from Tamil Nadu, whose security was withdrawn on the basis of threat perception assessed by the State Level Security Committee, held that the High Court is not expected to sit in appeal over the decision taken by the High Level Committee and decide to what level security a person should enjoy. Whether there is a threat perception to the applicant or not is to be decided by the competent authority and these are the questions to be left to the decision making process of the authorities constituted for this purpose. In instant case, during enquiry conducted by the police authority, it has been found that the petitioner does not face any real threat to his life or liberty. It seems that he has been asking for security as authority of symbol to flaunt his status as a VIP. Otherwise, despite being provided with two police officers of the rank of Assistant Sub Inspector, who are armed with advance type of arms

2024:PHHC:118235



and ammunition and providing him security round the clock, there was no reason for the petitioner to demand an escort gypsy with at least 05 gunmen IRB/Commando. More so, the petitioner, who as per his own submissions seems to be person of high means, is always at liberty to engage private security personnel at his own expenses.

14. Accordingly, in view of the discussion so made, this Court is of the considered opinion that the present petition is devoid of any merit. Hence, the same is dismissed. Since it is the stand of the respondent-authorities that there is no threat perception to the petitioner, they will be at liberty to withdraw the security already provided to the petitioner.

15. The Registry of this Court is directed to send a copy of this order to Senior Superintendent of Police, Patiala for information and necessary action.

10.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No