207

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-4383-2024
Date of decision: 28.05.2024

Jitender Rathee

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Amit Jhanji, Sr. Advocate with
Mr. Sandeep Kumar Goyat, Advocate for the petitioner.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Ms. Saigeeta Srivastava, Sr. Panel Counsel
for respondent No.1-Union of India.

Ms. Palika Monga, DAG, Haryana.

****

VIKAS BAHL, J. (ORAL)

1. This is a Criminal Writ Petition filed under Article 226/227 of the Constitution of India for the issuance of a writ in the nature of mandamus directing the respondents to provide adequate security cover to the petitioner through a Central Security Agency in the light of the murder of petitioner's father namely Sh. Nafe Singh Rathee Ex.MLA and threat faced by the petitioner on 28.02.2024 and 29.02.2024.

2. On 20.05.2024, this Court had passed the following order:-

"Learned State counsel has forwarded a letter, giving details of the security guards deputed at the residence of the

PAWAN KUMAR
2024.05.29 09:30
I attest to the accuracy and
authenticity of this document

family of the deceasedfather of the petitioner, which is taken on record and the same is marked as Mark 'A'.

Learned senior counsel for the petitioner has submitted that although it has been stated that there were ten persons deputed in the house of the family of the late father of the petitioner, but in fact there are only five persons at a time since the said persons come on a rotation basis. Similarly, it has been pointed out that two security guards are stated to be with the petitioner but, however, only one person at a time is with the petitioner and the said two persons are also on rotation basis.

Learned senior counsel has further submitted that Abhey Singh Chautala had appraoched this Court by filing the Criminal Writ Petition No.2360 of 2024 for providing security to him and one of the main pleas taken by the said Abhay Singh Chautala was that he belongs to the Indian National Lok Dal Party and father of the petitioner was the President of the said party and he had been killed in broad daylight and after considering the said averments, the State had provided Y+ security to him, in which the Security Officers were given AK-47 weapons.

It is argued that since it was the father of the petitioner who was killed and the petitioner has also been receiving threats, thus the petitioner should be granted Y+ security on the ground of parity.

Learned State counsel seeks time to get instructions in the matter.

Adjourned to 28.05.2024.

To be taken up at 12.00 noon."

3. Learned Senior Counsel appearing on behalf of respondent No.1-Union of India has submitted that on 24.05.2024, Union of India had forwarded the information to the State of Haryana with respect to threat

PAWAN KUMAR
2024.05.29 09:30
I attest to the accuracy and
authenticity of this document

inputs the Union of India had qua the petitioner and his family members.

4. Learned State Counsel has filed an affidavit dated 27.05.2024 in pursuance of the order dated 20.05.2024 passed by this Court which is taken on record. Paragraphs 8 and 9 of the said affidavit are reproduced hereinbelow:-

> *"8. Matter regarding security cover of the petitioner was taken up in District Level Committee, Jhajjar in the chairmanship of Sh. Ajay Tewatia, Ld. District & Sessions Judge, Jhajjar along with other members i.e. Sh. Ashok Kumar, District Attorney, Jhajjar and Dr. Arpit Jain, IPS, Deputy Commissioner of Police Headquarter, Jhajjar on dated 23.05.2024. District level Committee, Jhajjar recommended to continue the security already provided to the petitioner for the time being and it was found that security cover is adequate in view of the threat assessment report, subject to periodical review of the security provided as prescribed in the Haryana Witness Protection Scheme, 2020. The copy of order dated 23.05.2024 is Annexure R-2.*
>
> *9. That the petitioner, his family members and witnesses provided with 25 security personnel with automatic and semi-automatic weapons i.e. AK-47, carbines, Insas Rifle, 9MM Pistol etc. and the said security cover as provided on the recommendation of the district level committee constituted under the Haryana witness protection scheme and the same is adequate in all respect. As far as the security cover deployed with to Sh. Abhay Chautala is being provided with 11 personnel of Y+ security cover due to campaigning for his party in the ongoing Lok Sabha Elections and on the basis of threat perception found. The present security is subject to review in case it seems to be inappropriate then the security cover can be enhanced keeping in view the threat assessment*

PAWAN KUMAR
2024.05.29 09:30
I attest to the accuracy and
authenticity of this document

report. In the present case after the recommendation of District Level Committee Jhajjar, the security has been already provided since 26 February 2024 to the petitioners and his family members and others Witnesses. The Security covered has also been upgraded with effect from 23.05.2024 and the security personnels have been deployed with automatic weapons. The copy of detail of upgraded security cover dated 23.05.2024 is annexed herewith as Annexure R-3."

5. Learned State Counsel has referred to Annexure R-3 to give the details of the Security Guards which have been provided to the petitioner and his family members as on 23.05.2024, after the upgradation has been done with respect to the weapons and has submitted that in view of the same, adequate security is being provided to the petitioner and his family members and has prayed that the present Criminal Writ Petition be disposed of in terms of the said affidavit filed.

6. Learned Senior Counsel for the petitioner has submitted that a perusal of Annexure R-3 would show that two persons who are stated to be the Gunman of the petitioner i.e. EHC Robin and Constable Naveen, they both have not been provided with AK-47 and has further submitted that the said two Gunman are on rotational basis and thus, when the Constable Naveen would be on duty, he would be armed only with an Insas rifle and not with AK-47. It is further prayed that the authorities be directed to provide an AK-47 (Automatic Weapon) to Constable Naveen also and in case same is done then the petitioner, at this stage, would be satisfied with the security provided. It is further pointed out that in case the authorities were to decrease the security of the petitioner, since the trial of the accused persons

PAWAN KUMAR
2024.05.29 09:30
I attest to the accuracy and
authenticity of this document

who had threatened the petitioner is still at the initial stage and the witnesses are yet to be examined in the same, authorities may give at least a three week notice before downgrading the security of the petitioner and his family members, if required, so as to enable the petitioner to seek remedy in accordance with law.

7. Learned State Counsel, in response, on instructions from Dharamvir Singh HPS, Assistant Commissioner of Police, Bahadurgarh, District Jhajjar, who is present in the Court, has submitted that the Constable Naveen would also be armed with an AK-47 and in case the security of the petitioner or his family members is to be reduced, then a three week notice would be given before actually reducing the said security.

8. Learned Senior Counsel for the petitioner has submitted that the said statement satisfies the petitioner at this stage.

9. Keeping in view the abovesaid facts and circumstances, the present Criminal Writ Petition is disposed of as having been rendered infructuous.

10. Both the petitioner as well as State would be bound by the abovesaid statement made before this Court.

11. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

28.05.2024 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**

PAWAN KUMAR
2024.05.29 09:30
I attest to the accuracy and
authenticity of this document