

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

265

CWP-15446-2023
Date of decision: 16.01.2024

KASHMIR SINGHPetitioner

VERSUS

STATE OF PUNJAB AND OTHERSRespondents

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

Present: - Mr. Davinder Bir Singh Yadav, Advocate
for the petitioner.

Mr. Teevar Sharma, Asst. A.G. Punjab.

VINOD S. BHARDWAJ, J. (Oral)

Prayer in the writ petition is for seeking directions to the respondents to issue Police Clearance Certificate to the petitioner. It is contended by the Counsel that the petitioner has two sons namely Amandeep Singh Bhatia and Shagandeep Singh Bhatia who are permanent residents of Canada and that a VISA of Canada has been issued to the petitioner. He visited Canada in the year 2018 as well as in 2019. However, on 25.11.2019, an FIR No. 128 dated 25.11.2019 was registered at Police Station Mehtiana under Sections 149, 283, 353, 186 of the IPC against unknown persons on an allegation that a crowd of 100 persons had come to the Police Station to favour a person and had fought with the police officials thereby causing obstruction in the police duty. Despite the petitioner being a member of the

Panchayat, he was neither named in the FIR nor was ever involved in the said incident. However, at the behest of one former Sarpanch Paramjit Singh, he was now treated as an accused alongwith 60 other co-accused persons. Counsel contends that sons and wife of the petitioner are in Canada and that the petitioner intends to go and stay with his family in the fag end of his life and that in this regard, the petitioner had submitted an application under the Parents and Grand Parents Programme. The said application was, however, not processed awaiting a Police Clearance Certificate to be issued by the competent authority. An application was accordingly submitted by the petitioner to the respondent-State for issuance of Police Clearance Certificate, however, the same has been declined.

2. A short reply by way of affidavit of Ravinder Singh, Deputy Superintendent of Police, Head Quarter District Hoshiarpur has been filed wherein it has been averred as under:-

“2. That it is humbly submitted that FIR No.128, dated 25-11-2019, U/s 149, 283, 353, 186 IPC was registered on the statement of ASI Sukhram Singh No.230/HPR, P.S. Mehtiana, District Hoshiarpur that he is posted as Investigation officer in Police Station Mehtiana, on 25-11-2019 in the evening, he was present in the Police Station Mehtiana and Sukhdev Singh Pathi of Gurdwara Sahib of Village Khanaura on 25-11-2019 at about 12:00 noon outraged the modesty of Jasvir Kaur daughter of Baldev Singh R/o Village Khanaura. In this, regard the victim girl along with her family members and Ex.Sarpanch Paramjit Singh came to Police Station for submitting complaint. At about 05:00 p.m., a group of 100 unknown supporters of Sukhdev Singh Pathi, came to the Police Station and they the man handled Ex. Sarpanch. The complainant and ASI Gurminder Singh, HC Gurchain Singh, PHG Kulwinder Singh, MHC Pawan Kumar were present in the Police Station and they

tried to get free Ex. Sarpanch Paramjit Singh from group of supporters of Sukhdev Singh Pathi but the unknown supporters of Pathi also manhandled them and removed the turban of complainant. Thereafter, they interfered in the performance of duty of Police. From the contents of complainant, offences U/s 149, 283, 353, 186 IPC were made out and accordingly the present case was registered. During the investigation, the Investigation officer recorded the statements of witnesses and prepared site plan of place of occurrence.

3. *That it is humbly submitted that petitioner-Kashmir Singh, the accused Sukhjinder Singh, Jaskaran Singh, Gurpreet Singh, Karanjit Singh, Jaswant Singh, Gurvinder Singh, accused-Tanvir Singh, Surinder Singh, Sandeep Singh, Satinderjit Singh, Jaskirat Singh, Lovepreet Singh, accused-Karam Kaur, Narinderpal, Sarabjit Singh, Balbir Singh, Rajwinder Kaur, Iqbal Singh, accused- Manjinder Singh, Jasvir Kaur, Ranjit Kaur, Buta Ram, Ranbir Singh, Kulvir Singh, Balwinder Singh, Dharampal, Jarnail Pal, Varinder Kumar, Jatinderjit Singh, Hardeep Singh, Charanjit Kaur, Jaswinder Singh, Baljinder Singh, Bachitar Singh, Gurmeet Singh, Kuldeep Singh and accused-Sarpal Singh were granted bail by the court of Ms. Neelam Arora Ld. ASJ, Hoshiarpur and they joined investigation in the present case and they were released on furnishing bail bonds as per direction of the court of Ms. Neelam Arora Ld, ASJ, Hoshiarpur.*

4. *That it is submitted that accused Tanvir Singh, Karam Kaur, Sarpal Singh and Manjinder Singh were granted anticipatory bail by the court of Ld. ASJ, Hoshiarpur, accordingly they joined investigation in the present case and they were released on furnishing bail bonds as per direction of the court of Ld. ASJ, Hoshiarpur.*

5. *That it is humbly submitted that during the investigation accused- Jaskirat Singh, Karanjit Singh, Satinderjit Singh, Lovepreet Singh, Jaskaran Singh, Gurwinder Singh, accused Tanvir Singh, Gurpreet Singh, Surinder Singh,*

Sandeep Singh, Sukhjinder Singh and Jaswant Singh submitted an application No. 1307-SSP, dated 04-08- 2020 to SSP, Hoshiarpur alleging their innocence in the present case and the said application was marked for inquiry to DSP (Head Quarter), Hoshiarpur. The DSP (Head Quarter) Hoshiarpur conducted inquiry into the said application and found that the co- accused could not produce any evidence regarding their innocence and the present case should leave for the decision of the Hon'le Trial Court. Therefore, DSP (H.Q.), Hoshiarpur recommended to present the challan against the accused person and thereafter the inquiry report was approved by Senior Superintendent of Police, Hoshiarpur on 15-10-2020.

6. That it is humbly submitted that thereafter, Balwinder Singh son of Mohinder Singh submitted an application No.16-SSP, dated 05-01- -2021 and No.17-SSP, dated 05-01-2021 to SSP, Hoshiarpur alleging his innocence in the present case. The said applications was marked for Inquiry to DSP Rural Hoshiarpur and he conducted inquiry into said application and found that the applicant could not produce any evidence regarding their innocence in the present case and as such he recommended to file the applications of Balwinder Singh and other and the inquiry report was approved by SSP, Hoshiarpur on 16-3-2021.

7. That it is humbly submitted that the charge sheet U/s 173 Cr.P.C. was culmination of detailed investigation and the charge sheet for the offences U/s 186, 353, 283, 149 IPC was presented against petitioner and others. In the Learned Trial Court on 16-06-2021. The charges were framed against the petitioner and others on 16-12- 2021. Now the case is pending in the court of Sh. Simardeep Singh Sohi Ld. JMIC, Hoshiarpur for 30.08.2023 for awaiting of supplementary challan.

8. That it is submitted that the accused Manjinder Singh was declared PO on 01.12.2022, accused Tanvir Singh was declared PO on 11.01.2023 and accused Sandeep Singh was declared PO on 11.01.2023 in the present case.

9. *That it is humbly submitted that after completion of the investigation, the supplementary challan qua accused Prince and 14 others was presented in the Ld. Trial Court at Hoshiarpur on 23.08.2023. Now the case is pending in the court of Sh. Simrandeep Singh Sohi Ld. JMIC, Hoshiarpur for framing of charges for 30-08-2023.*

10. *That it is submitted that there are serious allegations against the petitioner and others in the present case and the occurrence was captured in CCTV footage of the CCTV cameras police station Mehtiana, Distt. Hoshiarpur and pan drive of the same was produced alongwith the challan in the court of Ld. Trial Court at Hoshairpur. The matter is subjudice before the Ld. Trial Court. In case the petitioner is given police clearance then he will go abroad and will not return to India and as such the present petition is not maintainable and is liable to be dismissed.”*

3. It is contended by the learned State Counsel that the incident in question was captured in the CCTV footage and a final report has already been filed against the petitioner wherein the charge has been framed. Hence, he is an accused in the said case.

4. I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended alongwith the present writ petition including the denial of Police Clearance Certificate to the petitioner.

5. This Court, vide its judgment dated 13.09.2023 passed in ***CWP-19314 of 2020*** titled as ***“Balwinder Singh versus Union of India and others”*** had issued directions to the State Agencies to issue Police Clearance Certificates in a prescribed format. The same had been incorporated as a part of judgment as Annexure ‘A’. It is evident from the perusal of Police Clearance Certificate attached with the present writ petition that the Police

Clearance Certificate/report has not been furnished in the said format for consideration of the respective authorities.

6. The present writ petition is accordingly disposed of at this juncture with a direction to the respondents to consider the application of the petitioner for issuance of the clearance/submission of report in terms of format incorporated by this Court in its judgment dated 13.09.2023 in the matter of *Balwinder Singh* (supra).

(VINOD S. BHARDWAJ)
JUDGE

JANUARY 16, 2024
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No