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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 30th August, 2024***+ **W.P.(CRL) 3344/2023**

ANJALI AND OTHERPetitioners

Through: Counsel (Appearance not given)

versus

UNION OF INDIA AND OTHERSRespondents

Through: Ms. Nandita Rao, ASC for the State
with SI Sumeet Poonia PS Vivek
Vihar.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****JUDGMENT (oral)**

1. A Criminal Writ Petition under Article 226 and Article 21 of the Constitution of India read with Section 482 Cr.P.C. has been filed on behalf of the petitioners for issuing directions to the respondent to give complete protection to the live and liberty of the petitioners and to direct an Inquiry into the illegal detention of the petitioners in the police custody by the Police Officials of Police Station Vivek Vihar.

2. The petitioner has submitted that the respondents have registered a false and fabricated FIR No.254/2023 under Section 307/186/353/332/341/506/34 IPC and Section 53/116 Delhi Police Act, Police Station Vivek Vihar, Delhi. Under the garb of investigations in this FIR, the petitioners are being repeatedly threatened with dire consequences and criminally intimidated by respondent No.3 to 6 and other police



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personnel of Police Station Vivek Vihar. They have been threatened that their residential premises shall be locked and sealed, in case they failed to withdraw the complaints filed by them against the higher Authority and respondent No.2.

3. It is further claimed that in the incident dated 25/26.01.2023 at around 01:30 petitioner No.2 and 5 had gone out of their house to bring their pet dog inside the house, 8-10 police officials of Police Station Vivek Vihar who were roaming on the road outside their house, abused and criminally intimidated them. Respondent No.3 Inspector Narender Singh, SHO, P.S. Vivek Vihar who was leading the team, also hurled dirty abuses on petitioner No.3. The respondent No.3 to 5 even outraged the modesty of petitioner No.1, 2 and 3 by uttering dirtiest abuses which were heard not only by the petitioners but by the entire public gathering, passersby and neighbours.

4. The petitioner No.1 and 2 immediately called the PCR at No.112 and registered their Complaint, but no action has been taken by the Police since the Complaint was made against the police officials and their staff. The police personnel of P.S. Vivek Vihar also took away the Scooty bearing registration No. DL13 SW 3871 and further threats have been extended to the petitioners.

5. After this incident, HC Nitin and HC Ajeet Punia of P.S. Vivek Vihar met petitioner No.4 and told him that if wants to live a peaceful life in the area, he would have to pay a bribe of Rs.3 lacs per month to respondent No.3. They also affirmed that regular *hafta* is being paid by the shopkeepers and hawkers of the area. They cautioned petitioner No.4 that in case the bribe was not paid regularly, his family would be put into trouble.



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6. The complaint of the petitioner No.1 and 2 dated 26.01.2023 was recorded vide GD No.0020D at 02:13:07 hours. The complaint of the scooter snatching on 26.01.2023 was also recorded at P.S. Shahdara vide GD No.0021A at 02:22:48 hours. Another complaint of the petitioners dated 26.01.2023 was recorded vide GD No.0022A at 02:27:25 hours at P.S. Shahdara. Another complaint dated 26.01.2023 was registered at P.S. Shahdara vide GD No.0028A. Despite these complaints, no FIR has been registered which has left the petitioners with a feeling of being unsafe. They have been threatened with violation of their fundamental rights, abuse and modesty outraged. The written Complaints have been given against Inspector Narender Singh, HC Ajeet and HC Nitin to Hon'ble the chief Justice of Delhi High Court, LG, DCP (Vigilance), ACP (Vigilance), SHO P.S. Vivek Vihar and other Authorities.

7. As a counterblast to the complaint by petitioner No.4 to the higher Authorities against the respondents, on 02.02.2023 at about 10:48 P.M respondent No.3 along with his police personnel both in uniform and civil dress reached the residential premises of the petitioners and broke the CCTV camera installed at their house. They hurled dirty abuses against the family members making the petitioners and their family feel humiliated and disgraced. The photographs have been filed in support of these assertions.

8. The wrath of respondent No.3 and his associates took an aggravated form again on 04.03.2023 when at 18:40 hours the police personnel and local public *gherao* the residential premises of the petitioners, banged the main door of their house with *lathis* and used most abusive language. They demanded removal of CCTV cameras from the petitioner's residential premises, but they refused to do so. The photographs of the incident have



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been annexed along with the petition. Since the respondents failed to take any action on the complaints of the petitioners, a Complaint Case under Section 200 read with Section 156(3) Cr.P.C. has been filed before the learned CMM, Shahdara, Delhi against respondent No.3 HC Ajeet Singh and HC Nitin on 25.03.2023 for commission of offences under Section 354/504/509/506 IPC and Section 3 & 4 of SC/ST Act. This has further aggravated the wrath of the respondents towards the petitioners.

9. The police personnel have been regularly raiding the residential premises of the petitioner at odd hours even without the presence of women police personnel to harass and intimidate the petitioners.

10. On 29.06.2023 at about 03:00 A.M the petitioner No.3 was seriously ill and she called petitioner No.4 who was facing externment from Delhi. Petitioner No.4 reached home to take care of his wife. Because the ailment was serious, some other relatives including one Master Bhavishya visited the house of petitioner No.3 Poonam, mother of petitioner No.2 in early hours of the morning at about 05:00 A.M. The family was planning to shift petitioner No.3 to the hospital. While they were busy in making the requisite arrangements, respondent No.4 and 5 were seen roaming near their residence and on finding Master Bhavishya on the Scooty, respondent No.5 snatched away TVS Scooty from him and took it away. This incident is also recorded in CCTV camera.

11. When Master Bhavisya raised an alarm, the petitioner No.5 came out of his house and asked respondent No.4 as to why his Scooty has been snatched by respondent No.4; however, without explaining anything he hurled dirty abuses at petitioner No.5. When the petitioner No.5 sought return of the Scooty, the respondent No.4 and 5 gave him severe beatings



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and started dragging him. When a hue and cry was raised by him, all the family members and neighbours gathered to rescue him. Petitioner No.2 and 3 resisted the kidnapping of petitioner No.5 by the police personnel and saved him. In this process, the petitioners were assaulted by respondent No.4 and 5. However, the family of petitioners was able to prevent the kidnapping of petitioner No.4 and 5.

12. It is further claimed that thereafter, respondent No.4 and 5 called respondent No.3 who came in a T-shirt with a large number of police personnel and caused a mayhem and reign of assault and terror in the area. Respondent no.3 to 5 also trespassed into the residential premises of the petitioner and damaged electronic gadget, CCTV cameras, household goods and took away the DVR of the CCTV. They also dragged petitioner No.3 at about 05:25 A.M to the Police Station. No FIR or complaint has been recorded of the Petitioner's about this incident.

13. The petitioners have claimed that the petitioner No.3 was illegally apprehended. The Respondent No.3 and 5 went to Dr. Hedgewar Hospital for medical check up for the alleged injuries inflicted on them in this incident, but the MLC does not indicate any history of unconsciousness, vomiting, convulsions, etc.

14. The respondent No.3 and 5 after returning from the hospital, again came back at the scene of incident after changing their clothes. They illegally apprehended petitioner No.5 at about 08:00 A.M and dragged him to Police Station Vivek Vihar, where he was illegally detained, and the grounds of detention were not informed to him. They registered FIR No.0254/2023 under Section 307/186/353/332/341/506/34 IPC and Section 53/116 Delhi Police Act, P.S. Vivek Vihar, Delhi after a delay of about 8



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hours by putting false and fabricated allegation of Section 307 IPC.

15. The petitioners No.1 and 2 have made written complaints about the false FIR registered against them to the Hon'ble Chief Justice of India, Delhi High Court, P.M, Minister, LG, CP and Chairman, National Human Rights Commission on 04.07.2023 by post as well as by hand. It is claimed that the FIR registered against the petitioners is a counterblast to the complaint filed by the father of petitioner No.2 against respondent No.3 and other police officials. The entire behaviour thereafter has become vindictive, and they are being harassed on one pretext or the other. The refusal of the petitioners to pay the bribe amount of Rs.3 lakhs per month is in fact the genesis of the vindictiveness of the police officials against the petitioners. They have been raiding the house of the petitioners at odd hours in civil clothes and the petitioners have no way of protecting themselves from the malafide acts of the respondents.

16. The petitioner No.1 has been granted interim protection by Order dated 06.07.2023. She has joined investigation and her interim protection has been extended from time to time and she has eventually been granted Anticipatory Bail vide Order dated 11.08.2023. The petitioner No.2 was granted Interim Protection vide Order dated 06.07.2023 and subsequently on 22.07.2023 I.O. submitted that the arrest of minor was not required. The petitioner No.5 has been granted regular bail by virtue of Order dated 07.07.2023. Interim Protection vide Order dated 06.07.2023 has been granted to Ms. Shobha and Ms. Sapna, the relatives of the petitioner and they have been finally granted Anticipatory Bail vide Order dated 01.08.2023.

17. The other accused Reena Devi and her son Sahil have been granted



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Anticipatory bail on 13.09.2023. The petitioner No.4 has been granted interim protection by this Court on 24.08.2023. The petitioner No.5 has been granted interim bail on 18.09.2023. On 18.07.2023, the respondent No.6 has moved for issue of NBW as petitioner No.4 claiming that he was not found and has been absconding and concealing himself. The NBW have consequently been issued against him, without following the guidelines laid down in the case of *Sunil Tyagi* and further ignoring that petitioner No.4 on account of externment for a period of two years, cannot be found in Delhi. The proceedings under Section 82 and 83 Cr.P.C. have been initiated by respondent No.6 against him in pursuance of a deep rooted conspiracy.

18. The petitioner No.4 has filed *Criminal Misc. (Main) No.6075/2023* in re: *Vimal Kumar Vs. State (NCT of Delhi) & Anr.* before this Court impugning the Orders dated 18.07.2023 and 02.08.2023 respectively, which has been withdrawn with the permission of the Court to approach learned ASJ.

19. The petitioner has thus, claimed that he has been implicated falsely in FIR No.254/2023 and that illegal raid has been conducted against them out of sheer vindictiveness as the petitioners had made complaints against the respondents. Their fundamental rights have been grossly violated by the respondents in dereliction of their duties and abuse of their Authority.

20. Hence, a prayer is made for grant of protection of life and liberty of the petitioners from the illegal raids and false implications by respondent No.3 to 6 and their Associates and that directions be given to the respondent No.1 and 2 to take cognizance on the various complaints made by them and to hold a high level Inquiry against the false implication of the petitioners in FIR No. 0254/2023. The directions be issued that Inquiry be conducted by



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the Officer of the rank of Dy. Commissioner of Police in CBI or any other competent Officers in CVC against the conduct of the respondents. Moreover, respondent No.1 be directed to transfer respondent No.3 to 6 from Vivek Vihar Police Station.

21. The ***respondents in their Status Report*** have submitted that petitioner No.4 Vimal Rahi is the notorious bootlegger and Bad Character (BC) of P.S. Vivek Vihar and is involved in more than 23 cases including Arms Act, Excise Act. His family and relatives are running a syndicate of illicit liquor for the last 40 years and that the entire family is involved against whom there are more than 100 cases registered in all. MACOCA has also been invoked against the petitioner No. 4 vide FIR No.175/2019 under Section 3/4 MACOCA Act.

22. The petitioner No. 4 has been externed from Delhi by the Order of DCP-I/SSP for a period of two years vide Order dated 14.03.2023. His Appeal against the externment Order has been dismissed on 24.05.2023 by Hon'ble LG.

23. Further, in *FIR No.78/2019 dated 03.03.2019 under Section 33 Delhi Excise Act*, 7000 quarters were recovered from him. 124 boxes containing 6200 quarters were recovered from a secret tunnel made under the slab of the kitchen in his house for which *FIR No.633/2022 dated 30.09.2022 has been registered under Section 33 Delhi Excise Act*.

24. Furthermore, he has already made a complaint under Section 156(3) Cr.P.C. against various police officials and also the police officials of P.S. Vivek Vihar only to mount pressure on the police so that they do not visit in the vicinity of their residence and they can continue their illicit trade of bootlegging. His family and relatives are actively supporting him in his



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business activity.

25. The other petitioner Poonam Rahi wife of petitioner No.4 is also involved in two cases. Ganesh Dass, father of petitioner No.4 is also a BC of P.S. Vivek Vihar and involved in more than 22 cases. His uncle Suresh Rahi is involved in more than 24 cases. The family of the petitioners have hold in the area and no one can dares to raise their voice against them or their business. The witnesses are not willing to come forward to depose against petitioner No.4 due to apprehension to the safety of self and property.

26. The case *FIR No.0254/2023 dated 29.06.2023* had been registered as HC Anuj who was on patrolling duty, got information about petitioner No.4, the externed, being present on his Delhi address. On receiving this information, he along with Const. Kailash went near the house of petitioner No.4 where they met accused Akshay Rahi, son of petitioner No.4 Vimal Rahi. When the police officials enquired about him about the whereabouts of petitioner No.4, he called other family members and relatives in furtherance of their hatched conspiracy and attacked both the officials with an intent to kill them and to terrorise the society as well as the police so that they can run the illicit trade of liquor without fear and any complaint. They had caught hold of HC Anuj and when he tried to escape from the grip of Akshay Rahi, Ponam Rahi hit him and beaten him on his right arm. Both HC Anuj and Const. Kailash who were injured, were medically examined at Dr. Hedgewar Hospital and subsequently FIR was registered.

27. It is submitted that because of the serious condition on account of the injuries suffered by HC Anuj, he suffered dizziness on coming back to Police Station and fell in the Duty Officer's room, P.S. Vivek Vihar. He



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was immediately shifted to the nearest hospital i.e. Gupta Nursing Home, Vivek Vihar. The entire incident has been recorded in CCTV footage of DO Room, P.S. Vivek Vihar. He was critical for more than 22 days and the injury was found to be grievous. Two investigations were carried out by the police in the FIR so registered. The respondents have been threatened by petitioner No.4 and his son and family members.

28. Further, during the investigations co-accused Anjali, Sapna, Shobha, Sahil and Reena were granted Anticipatory bail. Vide separate Orders accused Poonam has been granted regular bail on 07.07.2023. However, Anticipatory bail application of petitioner No.4 has been dismissed, on 19.07.2023.

29. It has been explained that during the course of investigations, several raids were conducted to apprehend petitioner No.4 *Vimal Rahi* in accordance with Rules and after recording their raids in the DD entries. Since he was not found available, his warrants have been taken from the learned M.M. The raid had been conducted on 29.07.2023 at House No.334-335, Vasundhra, Sector-A/2, Ghaziabad, U.P, where tenant Amrit Lal was found present who told that petitioner No.4 Vimal Rahi has not come there, and he has no contact with him. Police had made search for petitioner No.4 but could not trace him. Subsequent raids had also been conducted for apprehending the petitioner No.4 and he could not be apprehended because he was deliberately avoiding arrest. Therefore, proceedings under Section 82 Cr.P.C. had been initiated.

30. It is asserted that Vimal Rahi, petitioner No.4 pursuant to the interim protection given by this Court in the bail Application, has joined the investigation but refused to give answers on the assertions that he was aware



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of anything, but out of fear of the police he had gone into hiding. It is claimed that the petitioner No.4 though has joined the investigation, but is not cooperating and giving answers as per his own convenience.

31. It is further asserted that when Inspector Narender Singh came out of the Court after attending the hearing in the bail Application filed by the petitioner No.4, he was stopped by petitioner No.4. Petitioner No.4 then questioned Inspector Narender Singh as to how he could help him in this case on which Inspector Narender informed him that he cannot help him in any way and should join investigations. Petitioner No.4 then clarified that he was not talking about the case but stated that the SHO has ruined their entire business and spoiled their lives without even sparing the old man. Petitioner No.4 even offered money to let him do his work, which was refused by Inspector Narender Singh. He even threatened to pick up the SHO and that he would not spare him till Supreme Court or spare the Doctor who had given the final opinion in their case in regard to which DDNo.55A dated 12.09.2023 has been lodged at P.S. Vivek Vihar.

32. It is further stated that during the interrogation from PW4 Vimal Rahi on 26.09.2023, he has threatened the SHO Vivek Vihar and Dr. Gupta who has given the final opinion. He had again extended threats on 27.09.2023 in Police Station HC Anuj and HC Manish. Similar threats have been extended on 29.09.2023 for which DD No.49A has been registered. Similar DD entry has been recorded vide DD No.117A dated 29.09.2023 against him. It is asserted that PW4 who enjoys interim protection from this Court has been continuously threatening the complainant HC Anuj and SHO Vivek Vihar with dire consequences. The conduct of the accused is also not as it should be for the purpose of investigations. He is only trying to mark pressure on



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the police so that the investigations of the case may not be conducted and that the police do not stop them in their business of illicit liquor.

33. Submissions heard.

34. From the Petition and the Status Report of the respondents what emerges is that petitioner No.4 is not only a bootlegger but he along with his family, has been allegedly involved in illicit liquor business for which there are multiple FIRs registered against them. Whenever the police made an endeavour to conduct the raids to trace out this illicit liquor business, the petitioner and his family members oppose the same and even threaten the police officials. These are the raids and the visits of the police officials which are essential for the purposes of investigations of the cases that is being termed as illegal raids. It cannot be *prima facie* held that the raids or the visits made by the police officials, were with the intent to threaten or molest the family members of petitioner No. 4.

35. It has further emerged that on 29.06.2023, while the police officials had visited the house of petitioner No.4, they were molested, and injuries were caused to two of the police officials which resulted in FIR No. 0254/2023. Whenever, further investigations have been sought to be made against petitioner No.4 and the other accused persons/ petitioners, the police have been allegedly obstructed and abused for which various photographs captured in the CCTV cameras have been placed on record. It is apparently the investigations which have taken the police officials time and again to the residence of the petitioners and various Notices have been issued to the named accused persons for undertaking the investigations, which have not been to the liking of the petitioners.

36. The petitioners have also alleged an incident of 29.06.2023 in regard



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to which Criminal Complaint has already been filed. The legal remedy having been taken by the petitioner for the alleged inaction of the police officials, does not merit any further directions to the respondents.

37. While the petitioners have claimed that they are being harassed and implicated falsely in various cases, prima facie it is reflected that petitioner No.4 and his family members are not only bad characters and petitioner No.4 is not only been Extern, but they are involved in more than 100 cases if illicit liquor. No circumstance have been spelled out by the petitioner which reflect that any act of the respondents is violative of the rights of the petitioners or that there is any apparent threat from the acts of the police.

38. No direction whatsoever as sought by the petitioners are warranted in the present case. The petition is hereby dismissed.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 30, 2024

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