

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3329 OF 2023
WITH
INTERIM APPLICATION NO. 5117 OF 2024
IN
CRIMINAL WRIT PETITION NO. 3329 OF 2023

Godhumal Narayandas Kishnani & Anr. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

Mr. Subhash Jha a/w Mr. Samir Vaidya, Mr. Siddharth Jha,
Mr. Sumeet Upadhyay i/by Law Global, Advocate for the
Applicants/Petitioners.

Mr. J.P. Yagnik, Additional P.P. for Respondent No.1/State.

CORAM : RAVINDRA V. GHUGE
&
RAJESH S. PATIL, JJ.

DATE : 14th JANUARY, 2025

P.C. :-

1. On 16th December, 2024, this Court (Coram : Bharati Dangre & Manjusha Deshpande, JJ) had passed an order which reads as under :-

“1. On 25/10/2023, Writ Petition filed by the petitioners is admitted.

Upon the attention of the Court being invited to the amount of arrears which were due and payable for the police protection provided to the petitioners, this Court refused the interim relief and conferred liberty

on the petitioners to circulate the petition after deposit of the amount with the Government Ex- chequer.

When we specifically inquired with Mr.Jha, whether this amount has been deposited, his answer is in the negative.

He has however, invited our attention to the Maharashtra Witness Protection and Security Act, 2017, which is enacted with a view to provide protection to the witnesses in criminal trials, their relatives in relation to serious offences and for all matters connected thereto.

The enactment contemplate constitutions of Committees at distinct levels and Section 7 prescribe a procedure for providing protection to witnesses.

Mr. Jha has however, invoked Section 9 of the said Act, which contemplate protection to be offered to a witness, or to the Public Prosecutor or Additional Public Prosecutor upon his application made during the trial, and upon a satisfaction being reached that the lives of witnesses in the case are in danger, in such a case, the District Committee shall be duty bound to provide protection to the witnesses.

2. Despite the fact that the amount payable for his earlier police protection are due, since Mr.Jha has invoked the provisions of the 2017 Act, which has contemplated a scheme in Maharashtra for protection of witnesses and the petitioner is informed to have filed an application to that effect, upon which an order also came to be passed on 9/5/2022 by the Court at Ulhasnagar, where a clear finding is recorded as regards the threats being received by the petitioners, and also the fact that they enjoyed the police protection which was discontinued on account of covid pandemic. With a specific focus on the possibility of danger to the life of informant and his family members being not ruled out, the Court requested the District Committee established under the Maharashtra Witness Protection and Security Act, 2017, to consider the application and provide him and his family members necessary protection without any costs.

We are informed by Mr.Yagnik that the District Committee has rejected this application on 18/5/2022, but when we specifically inquired with him about the details of the order passed, he is unable to place anything before us.

3. We find substance in the submission of Mr.Jha, as Section 9 contemplate a direction to the District Committee to provide police protection, once the Court expressed its satisfaction about the necessity of providing police protection under the Act of 2017 and it is his specific contention that it should not have been in form of a request, but ought to have been a 'direction'.

However, since now we are informed that the District Committee has already passed an order, we direct Mr.Yagnik, the learned APP to place the order, or if necessary, the minutes of the meeting in which the decision has been taken before us.

To be listed on 3/1/2025.”

2. After we heard the learned Advocates for some time on 8th January, 2025, we had directed the Applicants to deposit an amount of Rs.25 Lakhs by RTGS in the Treasury in an account standing in the name of Police Inspector Central Police Station, UNR-3. The learned APP confirms that the Applicants have deposited Rs.25 Lakhs.

3. In the main Petition, the substantive prayer which needs consideration is at Clause (a), below Paragraph 10, which reads thus :-

“(a) that this Hon'ble Court may be pleased to issue a writ of mandamus and/or any other appropriate writ, order and/or direction in the nature of mandamus thereby directing the Respondents to forthwith restore the police protection provided to the Petitioners which was in force for a long and which was abruptly withdrawn in or about the month of March, 2020 during the widespread pandemic Covid-19, without the Petitioners being made to incur cost of incurring such police protection;”

4. In the Interim Application, the Applicants have put forth Prayer Clauses (a) and (b), which read thus :-

“(a) that this Hon'ble Court may be pleased to direct the Respondents to provide adequate police protection to the Applicants which was abruptly withdrawn in or about the month of February 2020 under the pretext of pandemic Covid-19 and so also in compliance with the order dated 9.5.2022, being Ex. 'H' annexed to the petition, passed by the Ld. Joint Civil Judge (Junior Division) and JMFC, Ulhasnagar on Ex.54 in RCC No. 603 of 2016 as well as taking into consideration the threats administered recently leading to registration of FIR No. 1255/24 with Central Police Station, Ulhasnagar on such reasonable terms and conditions as this Hon'ble Court may deem fit and proper;

(b) without prejudice to the rights and contentions ad subject to the outcome of Criminal Writ petition No.4191 of 2014, the Applicants shall deposit a sum of Rs.1,00,000/- per month towards arrears of police protection earlier given to the Applicants for the period from 1.10.2014 to 28.2.2020;”

5. There is no dispute that both the Petitioners/Applicants before us namely Godhuma Narayandas Kishnani and Pravin Godhuma Kishnani, are witnesses in relation to the crime registered by virtue of the First Information Report (in short 'FIR') bearing no.130 of 2010, lodged by Petitioner No.1 with the Central Police Station, District Thane, on 15th August, 2010. The chargesheet has been filed in the Court and the case has been registered as C.C. No.603 of 2016, which is pending before the Joint Civil Judge, Junior Division and J.M.F.C. Ulhasnagar. The stage in the matter is for framing of the charge. One more FIR bearing no.334 of 2014, was registered by Petitioner No.1 on 28th August, 2014 with the Central Police Station, District Thane.

6. In both these FIRs, Petitioner No.1 has alleged threats to his life and the details of such threats have been set out in the FIR.

7. The stage before the Trial Court with reference to the 2010 FIR, is for framing of charge. The contention of the learned APP is that the arrears of the charges for granting Police protection has crossed the Rs.1 Crore mark, which is contradicted by Mr. Jha, that the said amount could be around Rs.62 Lakhs out of which

Rs.27 Lakhs have already been deposited. Arrears of Rs.35 Lakhs are to be cleared.

8. Considering the rival contentions as emerging from the record and the prayers put forth by the Petitioners/Applicants, it is obvious that if in every FIR filed by Petitioner No.1, a threat perception is voiced and Police protection is to be granted, the said analogy could be made applicable to several cases. As is rightly submitted by the learned APP, the Police Department would be left with the job of only protecting such persons, who would be witnesses in their own cases. A via media has to be opted for, inasmuch as, since the Petitioners are businessmen and operating several establishments, they could also secure protection through Armed Guards by hiring such security personnel from specialized private agencies, on their own payment terms.

9. In the light of the above, **this Writ Petition and the Interim Application are disposed off**, with the following directions :-

- (a) The State shall provide Police protection to both the Petitioners/Applicants for a period of 60 days from today.
- (b) The Trial Court would frame the charge, on or before 15th February, 2025.

(c) The evidence of both the Petitioners/Applicants would be recorded, on or before 15th March, 2025.

(d) If for any reason, the above directions are not complied with for justifiable reasons, the Petitioners are at liberty to file an Interim Application in this disposed off Petition, for further orders.

(e) The remainder arrears of Rs.35 Lakhs shall be cleared by these Petitioners by payment of Rs.2.5 Lakhs per month, to the State, beginning from the first week of February, 2025.

(f) The amount so paid to the State Government, would be subject to the decision in Writ Petition No.4191 of 2014.

(g) After the recording of the testimony of the Petitioners is over, if the Petitioners/Applicants desire protection with the aid of the State Police, they would be liable to pay the requisite charges. Alternatively, they are at liberty to engage services of private Armed Guards, on their own payments terms.

(RAJESH S. PATIL, J.)

(RAVINDRA V. GHUGE, J.)