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

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Date of decision: 25.08.2025

Hari Dass

...Petitioner

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. HPS Ghuman, Advocate for the petitioner.

Mr. Gurpartap S. Bhullar, AAG Punjab.

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Article 226 of the Constitution of India, seeking issuance of a writ in the nature of mandamus for protection of his life and liberty and to restrain the private respondents and police authorities from allegedly harassing and falsely implicating him in criminal cases.

2. The case as set up by the petitioner in the instant petition is as follows:

2.1. The petitioner, who is a resident of District Fatehgarh Sahib, raised complaints before various authorities regarding embezzlement of Panchayat funds and irregularities committed by Inderjit Singh, the *de facto* Sarpanch of the village. Due to these complaints, the said Inderjit Singh, in connivance with ASI Sanjeev Kumar and other persons began harassing the petitioner. It was further alleged by the petitioner that he was illegally detained, beaten, handcuffed, undressed, and falsely implicated into the proceedings under Sections 107/151 and later under Section 107/150

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Cr.P.C. Despite repeated representations to various higher authorities, including the SSP, DGP, Chief Minister, and Punjab State Human Rights Commission, no action was taken. Subsequently, the petitioner alleged that he and his family members have been falsely implicated into FIR No. 0054 dated 01.05.2024 registered under Sections 354-B, 323, 506, 147 and 149 of IPC at Police Station Sirhind, District Fatehgarh Sahib which was a counterblast of the complaints moved by the petitioner against the private respondents. Furthermore, the petitioner alleged that his nephew was in fact grievously injured in an assault by the private respondents. The officials concerned continue to threaten the petitioner with false implication and danger to his life if he does not withdraw his complaints. Thus, the fundamental right of the petitioner to life and liberty stands gravely endangered which necessitated the petitioner to approach this Court.

3. Learned counsel for the petitioner has iterated that the petitioner has raised bona fide complaints regarding large scale misuse and embezzlement of public funds by the Sarpanch. It is contended by learned counsel that instead of taking corrective measures on the complaint of the petitioner, the private respondents, in collusion with the Sarpanch turned inimical towards the petitioner. Learned counsel has further iterated that the petitioner has been subjected to repeated harassment at by the private respondents besides a false and concocted FIR has been registered against the petitioner. Learned counsel has emphasized that despite making repeated representations to the higher authorities, the grievance of the petitioner remain undressed. According to learned counsel, the actions of private respondents and their associates with the alleged support of the local

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police, amount to a clear violation of Article 21 of the Constitution, which guarantees the right to life and personal liberty. The petitioner is facing a real and imminent threat to his safety due to continuous harassment and open threats at the hands of private respondent(s). Furthermore, the petitioner has no other effective, speedy or statutory remedy available and is therefore, constrained to approach this Court by way of the instant writ petition seeking protection of his fundamental rights.

4. Per contra, learned State counsel has opposed the prayer made by the petitioner by arguing that the allegations raised by the petitioner are totally false. Referring to the para 7 of the short reply dated 23.07.2025, learned State counsel has submitted that the representations dated 29.08.2023 (Annexure P-6) and 25.03.2025 (Annexure P-25) were duly examined by the competent police authorities in accordance with law. According to learned State counsel, the allegations raised therein were found to be unsubstantiated and unsupported by any corroborative material. The subsequent representation dated 25.03.2025 (Annexure P-25) was also scrutinized and revealed to be a reiteration of earlier allegations which has already been addressed.

5. I have heard learned counsel for the rival parties and have perused the paper-book.

6. The present petition has been preferred under Article 226 of the Constitution of India, invoking the extraordinary writ jurisdiction of this Court. The prime prayer made in the petition is that the local police, allegedly acting in collusion with the private respondent, are unlawfully interfering in the life of the petitioner further endangering his liberty and

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well being. The petitioner (herein) who claims that the local police alongwith private respondent(s) have extended threats to him and exerting pressure upon the Police to falsely implicate the petitioner in a false case, has chosen to invoke the inherent jurisdiction of this Court under Article 226 of the Constitution of India without even referring to any material which substantiate the averments so advanced. As regards protection of life and liberty of the petitioner, no such accentuating facts/circumstances have been brought forward by the petitioner which may warrant interference by this Court under Article 226 of the Constitution of India. It is, thus, indubitable that said apprehension expressed on behalf of the petitioner is nothing but a bald assertion. Mere bald and unsubstantiated averments, devoid of cogent material, does not confer upon the petitioner an entitlement to invoke the extraordinary writ jurisdiction of this Court. The invocation of writ jurisdiction must be predicated upon demonstrable facts and credible material that prima facie establish a legal right & its infringement. Absent such foundational substance, the petition is rendered speculative. The writ Court, being a Court of equity & discretion, is not to be moved on the basis of vague, hollow assertions bereft of probative value.

7. The petitioner has averred to have moved various to higher authorities, whereof no action alleged to have been taken by the concerned authority. In case the petitioner is aggrieved by commission of any offence against him, the same can be efficaciously redressed by approaching the competent Magistrate having jurisdiction in the matter. It would be apposite to refer herein to a judgment of this Court passed in ***CRM-M-34678-2024***



titled as *AXXXX vs. vs. State of Punjab and others*, decided on 31.07.2024; relevant whereof reads as under:-

“11. As a sequel to above ruminations, the following postulates of law emerge:

I. An Illaqa/Jurisdictional Magistrate has; by virtue of Sections 173 and 175 of BNSS, 2023; the necessary powers and jurisdiction to grant plea(s) for issuance of direction(s) for registration of an FIR, monitoring of investigation in an FIR, change of investigating officer and prayer(s) of alike nature.

II. Ordinarily, an applicant/complainant ought to approach, in the first instance, the Court of Illaqa/Jurisdictional Magistrate to seek prayer(s) for issuance of direction(s) for registration of an FIR, monitoring of investigation in an FIR as also other prayers of akin nature.

III. In a given case, if the facts/circumstances so warrant, the High Court is well within its jurisdiction to entertain and consider plea(s) seeking registration of an FIR, monitoring of investigation in an FIR, constituting an SIT (Special Investigating Team), change of investigating officer & all such prayer(s) of such kind and nature. However, it would be prudent that an applicant/complainant, while seeking to invoke the jurisdiction of a High Court under Section 528 of BNSS, 2023 in the first instance seeking prayer(s) of above nature, shows sufficient cause for not having approached the Illaqa/Jurisdictional Magistrate in the first instance.

IV. A High Court, in its inherent jurisdiction under Section 528 of BNSS, 2023 has unbridled, unfettered and plenary powers. The only restriction on exercise of such powers is self-restraint. No inflexible and comprehensive guidelines can conceivably be enumerated governing the exercise of these intrinsic powers by a High Court under Section 528 of BNSS, 2023. There is no gainsaying that the nature, mode and extent of such exercise of powers by a High Court under Section 528 of BNSS, 2023 shall depend upon the judicial discretion exercised by a High Court in the facts and circumstances of a given case.”

7.1. It is a well-entrenched tenet of the Constitutional jurisprudence that the extraordinary jurisdiction under Article 226 is not to be lightly or



casually invoked, nor is it to be treated as an alternative forum to bypass established legal channels. The writ jurisdiction, though wide & potent in its sweep, is circumscribed by certain self-imposed limitations rooted in prudence. Where a statutory mechanism is available, which is not only efficacious but also adequate in addressing the alleged grievance, the High Court, in exercise of its writ jurisdiction, must exhibit judicial restraint. The writ Court is not to be converted into a Court of first instance for adjudication of disputes for which an efficacious statutory framework exist. A profitable reference in this regard can be made to the dicta passed by a Constitutional Bench of the Hon'ble Supreme Court in the case of ***Union of India vs. T.R. Verma, 1957 AIR Supreme Court 882***, relevant whereof reads thus:

*“..... It is well-settled that when an alternative and equally efficacious remedy is open to a litigant, he should be required to pursue that remedy and not invoke the special jurisdiction of the High Court to issue a prerogative writ. It is true that the existence of another remedy does not affect the jurisdiction of the court to issue a writ: but, as observed by this court in ***Rashid Ahmed v. Municipal Board, Kairana, (1950) S.C.R. 566***, “the existence of an adequate legal remedy is a thing to be taken into consideration in the matter of granting writs”. Vide also ***K.S. Rashid & Son v. The Income-tax Investigation Commission, (1954 S.C.R. 738, 747***. And where such remedy exists, it will be a sound exercise of discretion to refuse to interfere in a petition under Article 226, unless there are good grounds therefore.”*

The principle of self-restraint, which this Court ordinarily observes in matters where an alternative remedy is available, acquires profound relevance & weight when such alternative remedy partakes a judicial character. In such instances, the jurisdiction of this Court ought to be exercised with circumspection, lest it transgress the bounds of judicial discipline. To entertain a matter in the absence of the exhaustion of an equally efficacious & statutorily prescribed remedy before competent



jurisdictional Magistrate would not only amount to an impropriety in the exercise of writ jurisdiction but would also constitute a departure from the salutary principle of subsidiarity that undergirds the statutory scheme. It is neither consistent with the hierarchy of remedies nor constant with the orderly administration of justice for this Court to interlude prematurely, thereby rendering the legislative architecture otiose and undermining the forum expressly designated for such redressal.

8. Accordingly, this Court does not find the present case a fit one for exercise of its jurisdiction under Article 226 of the Constitution of India. The instant petition filed under Article 226 of the Constitution of India stands dismissed.

(SUMEET GOEL)
JUDGE

August 25, 2025
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No