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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-8477-2024

Date of Decision:- 07.07.2025

Vipan Kumar @ Vicky

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Kunwarbir Singh, Assistant A.G. Punjab.

AMARJOT BHATTI, J.(Oral)

1. Petitioner Vipan Kumar @ Vicky filed criminal writ petition under Article 226 of Constitution of India for issuance of appropriate direction to official respondents No. 1 to 3 to protect life and liberty of petitioner and his family from the hands of respondent No. 4 and police officials of Police Station CIA Staff, Amritsar who are threatening to involve him in false cases under NDPS Act and repeatedly raiding his house during odd hours and for issuance of any other appropriate direction which the Court may deem fit and proper in the given facts and circumstances of the case.

2. Learned counsel for petitioner alleged that petitioner was nominated as accused in FIR No. 179 dated 06.12.2019 under Section 21, 29 of NDPS Act, 1985 and under Section 25 of Arms Act, Police Station Jhabal, District Tarn Taran. No contraband was recovered from his

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possession and he was nominated on the basis of disclosure statement. He was granted regular bail on 10.01.2020 and he is regularly appearing before the trial Court. He was again falsely implicated in FIR No. 75 dated 21.04.2022 under Section 21, 29 of NDPS Act and Section 25 of Arms Act, Police Station STF Wing (Jalandhar), District SAS Nagar, Mohali. No contraband was recovered from him and he was again nominated on the basis of disclosure statement. He was granted interim bail vide order dated 21.11.2023 passed in CRM-M-43145-2023 (Annexure P-1) and said order was confirmed vide order dated 07.05.2024 (Annexure P-2). After his release in said FIRs on 01.12.2023, he has been residing in his house alongwith his wife and other family members. He has not misused the concession of bail granted in his favour.

However, police of CIA Staff, Amritsar has started harassing and intimidating him and his family members. No other case has been registered against him. Petitioner has given detail when police raided his house during odd hours i.e. on 14.07.2024 at 08:19 pm, on 21.07.2024 at 07:39 pm, on 08.08.2024 at 07:25 pm and on 12.08.2024 at 07:37 am. Visit of police officials was duly captured and recorded in CCTV cameras installed in the house as well as installed outside the house. The beauty parlor run by his wife is situated opposite to their residential house across the road. Still photographs developed from the videos are Annexure P-5 and pendrive is Annexure P-4. Due to terror of police officials of CIA Staff, Amritsar, petitioner was forced to leave the house and stayed with his relatives alongwith his family. Now, petitioner and his wife are unable to earn their livelihood. Petitioner had given representation dated 12.08.2024



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(Annexure P-6) to higher authorities i.e. Commissioner of Police, Amritsar. Postal receipt is Annexure P-7. Police of District Amritsar and CIA Staff, Amritsar are misusing their powers and causing harassment to petitioner and his family members. Hence, the present petition.

Learned counsel for petitioner has relied upon the judgment of **Supreme Court of India (Constitutional Bench)**, case titled “**Kharak Singh Versus State of U.P. and others**” *Law Finder Doc ID #111266* cited in *1963 AIR (Supreme Court) 1295*, where in that case Kharak Singh - petitioner was challaned in a dacoity case in the year 1941 and finally he was released under Section 169 Criminal Procedure Code as there was no evidence against him. On that basis, the police had opened history-sheet with regards to him which was finally challenged by petitioner by filing petition under Article 32 of Constitution of India challenging the constitutional validity of Chapter XX of U.P. Police Regulations and powers conferred upon police officials by its several provisions on the ground that they violated the rights guaranteed to a citizen under Article 19(1)(d) and 21 of the Constitution. Relevant para Nos. 7 and 17 of the said judgment runs as under :-

“7. The sole question for determination therefore is whether “surveillance” under the impugned Ch. XX of the U. P. police Regulations constitutes an infringement of any of a citizen’s fundamental rights guaranteed by part III of the Constitution. The particular Regulation which for all practical purposes defines “surveillance” is Regulation 236 which reads:

“without prejudice to the right of Super intendants of police to put into practice any legal measures, such as shadowing in cities, by which they find they can keep in touch with suspects



in particular localities or special circumstances, surveillance may for most practical purposes be defined as consisting of one or more of the following measures:

- (a) Secret picketing of the house or approaches to the houses of suspects ;
- (b) domiciliary visits at night;
- (c) through periodical inquiries by officers not below the rank of sub-inspector into repute, habits, associations, income, expenses and occupation;
- (d) the reporting by constables and chaukidars of movements and absences from home;
- (e) the verification of movements and absences by means of inquiry slips;
- (f) the collection and record on a history-sheet of all information bearing on conduct.”

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17. We shall now proceed with the examination of the width, scope and content of the expression “personal liberty” in Article 21. Having regard to the terms of Article 19 (1) (d), we must take it that that expression is used as not to include the right to move about or rather of locomotion. The right to move about being excluded its narrowest interpretation would be that it comprehends, nothing more than freedom from physical restraint or freedom from confinement within the bounds of a prison; in other words, freedom from arrest and detention, from false imprisonment or wrongful confinement. We feel unable to hold that the term was intended to bear only this narrow interpretation but on the other hand consider that “personal liberty” is used in the Article as a compendious term to include within itself all the varieties of rights which go to make up the “personal liberties” of man other than those dealt with in the several clauses of Article 19(1). In other words,



while Article 19 (1) deals with particular species or attributes of that freedom, “personal liberty” in Article 21 takes in and comprises the residue. We have already extracted a passage from the judgment of field, J. in ***Munn v. Illinois, (1876) 94 US 113 at p.142*** where the learned Judge pointed out that ‘life’ in the 5th and 14th amendments of the U.S. Constitution corresponding to Article 2, means not merely the right to the continuance of a person’s animal existence, but a right to the possession of each of his organs - his arms and legs etc. We do not entertain any doubt that the word “life” in Article 21 bears the same signification. Is then the word ‘personal liberty’ to be construed as excluding from its purview an invasion on the ‘part of the police of the sanctity of a man’s home and an intrusion into his personal security and his right to sleep which is the normal comfort and a dire necessity for human existence even as an animal ? It might not be inappropriate to refer here to the words of the preamble to the Constitution that it is designed to “assure the dignity of the individual” and therefore of those cherished human values as the means of ensuring his full development and evolution. We are referring, to these objectives of the farmers merely to draw attention to the concepts underlying the Constitution which would point to such vital words as “personal liberty” having to be construed in a reasonable manner and to be attributed that sense which would promote and achieve those objectives and by no means to stretch the meaning of the phrase to square with any pre-conceived notion or doctrinaire constitutional theories Frankfurter J. observed in ***Wolf v. Colorado (1948) 338 US 25.***

“The security of one's privacy against arbitrary intrusion by the police..... is basic to a free society. It is therefore implicit in "the concept of ordered liberty' and as such enforceable against the states through the Due Process Clause. The knock at the door, whether by day or by night



as a prelude to a search without authority of law but solely on the authority of the police, did not need the commentary of recent history to be condemned as inconsistent with the conception of human rights enshrined in the history and the basic constitutional documents of English speaking peoples.....We have no hesitation in saying that were state affirmatively to sanction such police incursion into privacy it would run counter to the guarantee of the Fourteenth Amendment.”

Murphy, J. considered that such invasion was against “the very essence of a scheme of ordered liberty.””

It is argued that in the light of this, petition filed by petitioner may kindly be accepted by giving appropriate directions as may deem fit and proper in the given facts and circumstances of the case.

3. Status report was called for. As per status report dated 01.10.2024 submitted by Kuldip Singh, PPS, Assistant Commissioner of Police (Detective), Amritsar City, according to the report given by Incharge, CIA Staff Amritsar, no police official of CIA Staff conducted any raid at the house of petitioner on 14.07.2024, 21.07.2024, 08.08.2024 and 12.08.2024. It was submitted that house of petitioner falls within the jurisdiction of Police Station B-Division, Amritsar.

Accordingly, report was obtained from concerned SHO, Police Station B-Division, Amritsar. It is submitted that Vipin Kumar @ Vicky is a drug peddler residing in the area of Police Station B-Division, Amritsar, involved in FIR No. 179 dated 06.12.2019 (supra) and FIR No. 75 dated 21.04.2022 (supra). As per directions of State Government, during ongoing special campaign against such drug smugglers, traffickers, peddlers,

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suspected persons, 'Cordon and Search Operations' were launched from time to time. In status report there is reference of GD No. 9 dated 14.07.2024, GD No. 14 dated 21.07.2024 and GD No. 6 dated 12.08.2024, when the checking was done and petitioner was not found present in his house. Report of SHO, Police Station B-Division, Amritsar is Annexure R-1/T. It is further mentioned that petitioner has not been caused any kind of harassment by police. This petition has been filed to create undue pressure on local police.

4. On further direction of this Court, Assistant Commissioner of Police (East), Amritsar filed supplementary status report dated 23.11.2024 vide which he placed on record directions issued by Director General of Police, Punjab, Chandigarh for 'Cordon and Search Operation Eagle-IV' (Annexure R-1) to detect and arrest drug peddlers, traffickers on 21.06.2024 and operation was to continue from 08:00 am till 02:00 pm. As per this circular, responsible officers were deputed to supervise the said operation and at serial No. 10 Sh. M.F. Farooqui, IPS, Additional DGP, SAP, Jalandhar was to supervise the operation of CP, Amritsar. There is another circular regarding 'Cordon and Search Operations against Street Crime' on 07.10.2024 (Annexure R-2), where again all Districts and Commissionerates were to hold operation on 07.10.2024 from 11:00 am to 03:00 pm. Therefore, Assistant Commissioner of Police (Detective), Amritsar in the said status report on the basis of aforesaid search operations tried to justify the raids which were conducted at the residential house and beauty parlor run by the wife of present petitioner.



5. The report is also called from Sh. Mohd. Faiyaz Farooqui, IPS, Additional Director General of Police, State Armed Police, Jalandhar and as per supplementary status report dated 19.12.2024, he referred to four single day Cordon and Search Operations against drug peddlers and street crimes on different dates during the year 2024 i.e. on 08.01.2024, 21.06.2024, 07.10.2024 and 09.10.2024 under the supervisions of senior police officers. Said circulars regarding Cordon and Search Operations are Annexure R-1 to Annexure R-4. In status report, again there is reference of two FIRs registered against present petitioner. As per directions of Punjab Government, to make Punjab drug free, senior officers conducted regular checking and searches of such drug peddlers from time to time. Petitioner resided in the area of Police Station B-Division, Amritsar. Furthermore, there is reference of GD No. 09 dated 14.07.2024, when police party headed by Inspector Ranjit Singh visited the house of petitioner. There is reference of GD No. 14 dated 21.07.2024, when again police party headed by Inspector Satnam Singh visited the house of petitioner. Again on 08.08.2024, on the directions of SHO, Police Station B-Division, Amritsar, ASI Sewa Singh and others visited the house of petitioner. On 12.08.2024, again police party headed by ASI Amarjit Singh visited the premises of petitioner. Said General Dairy numbers are annexed as Annexure R-5 to Annexure R-8.

6. In status report dated 18.03.2025, Deputy Commissioner of Police (Investigation), Amritsar gave detail of police officers who had conducted raids on said dates. Sh. Mohd. Faiyaz Farooqui, IPS, Additional Director General of Police, State Armed Police, Jalandhar vide



supplementary status report dated 18.03.2025 clarified that under his supervision, Cordon and Search Operations were conducted only on two dates i.e. 08.01.2024 and 21.06.2024. Lastly, status report has been filed on 03.05.2025 that no police official has caused any kind of harassment to petitioner or his family members.

7. I have considered the aforesaid factual position. It is an admitted fact that petitioner is involved in two criminal cases under NDPS Act i.e. FIR No. 179 dated 06.12.2019 (supra) and FIR No. 75 dated 21.04.2022 (supra). In both FIRs, petitioner has been granted bail and as per his petition, he returned home after getting bail on 01.12.2023. Merits of aforesaid cases will be decided by concerned trial Courts. Main grievance of present petitioner was that he was being harassed and threatened by police allegedly of CIA Staff, Amritsar by visiting his house during odd hours. Petitioner has mentioned four incidents when either late in the evening or early morning, police officials visited his house as well as beauty parlor run by his wife i.e. on 14.07.2024, 21.07.2024, 08.08.2024 and 12.08.2024. CCTV footage in pendrive is Annexure P-4 and still photographs are Annexure P-5. This record clearly indicates that large number of police officials time and again visited residential house and beauty parlor run by the wife of petitioner.

Perusal of Cordon and Search Operations organized by office of the Director General of Police, Punjab, Chandigarh for 08.01.2024, 21.06.2024, 07.10.2024 and 09.10.2024 (Annexures R-1 to R-4) placed on record with status report dated 19.12.2024, were single day Cordon and Search Operations for specific date and duration as detailed therein. On the



contrary, house of the petitioner and workplace of his wife were visited by police officials time and again on different dates i.e. on 14.07.2024, 21.07.2024, 08.08.2024 and 12.08.2024. Therefore, visits of police officials on the said dates are not covered under said Cordon and Search Operations organized by Director General of Police, Punjab, Chandigarh. Status reports submitted from time to time does not explain the visit of police officials in the residential house and work premises of his wife.

8. There is no doubt about it that police is to keep check on anti-social persons. They can conduct search and arrest persons as per provisions detailed in Bharatiya Nagarik Suraksha Sanhita, 2023, (corresponding to Code of Criminal Procedure, 1973). At the same time, life and liberty and privacy of an individual cannot be invaded. Police is also bound by the law and they are supposed to conduct search or make inquiry within the framework of provisions of law. The judgment of **Supreme Court of India (Constitutional Bench)** in “*Kharak Singh Versus State of U.P. and others*” (supra) is applicable to the facts and circumstances of present case.

As referred above, apart from registration of two FIRs as detailed above, petitioner is not involved in any other FIR, whereas wife of petitioner is not involved in any criminal case. Petitioner and his family faced harassment from the hands of police of Police Station B-Division, Amritsar. Representation dated 12.08.2024 (Annexure P-6) was sent to Commissioner of Police, Amritsar – respondent No. 3. At that point of time, respondent No. 3 was duty bound to look into the allegations detailed in representation and to keep a check on the functioning of police officials



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working under his supervision. As detailed in status report dated 19.12.2024 and status report dated 18.03.2025, names of police officials have been detailed who time and again conducted raid during odd hours in residential house and beauty parlor of wife of petitioner.

In the light of aforesaid factual position, it is the duty of official respondents No. 2 and 3 to maintain law and order on the one hand and protect the life and liberty of individuals on the other hand. Nobody can be permitted to act in an arbitrary manner. The sanctity of organization has to be maintained. Thus, respondent No. 3 is directed to look into the representation dated 12.08.2024 (Annexure P-6) alongwith conduct of aforesaid police officials who conducted raids on aforesaid dates and to take appropriate departmental action, if required, under the supervision of respondent No. 2.

Secondly, respondent No. 3 is further directed to take appropriate steps to protect life and liberty of petitioner and his family from unjustified interference.

It is further made clear that aforesaid directions will not save the petitioner or any member of his family in case of any violation of law. With aforesaid observation, present petition stands disposed of.

9. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

07.07.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No