

CWP-PIL-200-2024

Court on its own motion Vs. State of Punjab and others

Present : Mr. Gurminder Singh, Advocate General, Punjab, with
Mr. J.S. Gill, Addl. Advocate General, Punjab,
Mr. Saurav Khurana, Addl. Advocate General, Punjab, and
Mr. Salil Sabhlok, Senior DAG, Punjab.

Mr. Amit Jhanji, Senior Standing Counsel, UT Chandigarh, with
Mr. J.S. Chandail, Addl. Standing Counsel,
for Union Territory, Chandigarh.

Mr. R.S. Cheema, Senior Advocate,
Mr. Vinod Ghai, Senior Advocate,
Mr. R.S. Rai, Senior Advocate (through video conferencing), with
Mr. A.S. Cheema, Advocate,
Mr. Satish Sharma, Advocate,
Mr. Arnav Ghai, Advocate,
Mr. Arjun Singh Rai, Advocate,
for Punjab & Haryana High Court Bar Association, Chandigarh.
Mr. Jasdev Singh, Acting President, High Court Bar Association.

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1. Let the Union of India through Secretary, Home Affairs, and the State of Haryana through its Home Secretary be impleaded as parties to this petition.
2. Mr. Satya Pal Jain, learned Additional Solicitor General of India, appearing through video conferencing, assisted by Mr. Dheeraj Jain, Senior Panel Counsel, Govt. of India, appears on behalf of the Union of India. He assures for all possible assistance within four corners of law.
3. Mr. Deepak Balyan, learned Additional Advocate General, Haryana, appears on behalf of the State of Haryana.
4. Vide letter dated 26.09.2024, the Punjab & Haryana High Court Bar Association has raised concern of the legal fraternity regarding the incident, which has given rise to this case, and has extended empathy and support to the Bench. The said letter is taken on record as 'Annexure X'.
5. On 25.09.2024, this Court directed the State of Punjab to submit status report with regard to the nature and stage of investigation being

conducted pursuant to the incident, which took place on 22.09.2024, where the security and safety of a sitting Judge of this Court was compromised at the precincts of Golden Temple, Amritsar, when one of the miscreants stole 9 mm pistol from holster of PSO of the learned Judge and ran towards entrance of the Golden Temple with possible intent to harm the learned Judge, but his advancement was thwarted by the said PSO, who tried to retrieve his pistol from the miscreant and in the scuffle that followed, the miscreant shot himself in the head.

6. The U.T. Administration, on the last date, was also directed to seek instructions as to what steps have been taken to beef up the security of the learned Judge.

7. When the case is taken up today, two status reports have been filed; one by the Commissioner of Police, Amritsar, and the other by the Senior Superintendent of Police (Security & Traffic, UT – Chandigarh).

7.1 The status report filed by the Commissioner of Police, Amritsar, reveals thus :

(i) FIR No. 117 dated 22.09.2024 (Annexure 3), alleging offence punishable u/s 304 BNS, Police Station E-Division, Amritsar, relating to incident which took place on 22.09.2024 outside the precincts of Golden Temple;

(ii) FIR No. 44 dated 23.09.2024 u/s 285 BNS and Section 8-B of the National Highways Act, Police Station Tallewal, relating to obstruction of vehicle of learned Judge by mob on Barnala – Moga Highway; and

(iii) FIR No. 118 dated 26.09.2024 Police Station E-Division, Amritsar, alleging offence punishable u/s 303 (2) and 317 (2) BNS.

8. As regards action taken during course of investigation in the said three offences, the affidavit reveals thus :

(i) Fingerprints of deceased sent to Finger Print Bureau at Punjab Police Academy (PPA), Phillaur, did not disclose any positive result;

(ii) Notice has been issued to all CPs/SSPs and AIR/GRP;

(iii) Photographs of the deceased have been published in news papers;

(iv) To identify the deceased, a special report has been shared with DGP, Tamil Nadu;

(v) A Special Investigating Team (SIT) headed by DCP/Investigation has been constituted, which is being supervised by Shri B. Chandra Sekhar, IPS, ADGP Modernization, Punjab;

(vi) The deceased has been identified as Hariprasad by his mother Lakshmi Anandhan, resident of Mahalingapura, Coimbatore, Tamil Nadu;

(vii) Post Mortem of the deceased would be conducted on arrival of family members of deceased;

(viii) As regards, security lapse/breach at Amritsar, disciplinary proceedings have been initiated against ASI (LR) Ashwani Kumar vide order dated 24.09.2024, and show cause notices have been issued to ASI (LR) Sukha Singh and ASI (LR) Harjit Singh on 24.09.2024; and

(ix) As regards *Gherao*/protest by farmers in District Barnala, for fixing responsibility for security lapses and taking strict action,

Enquiry Officer has been asked to investigate and submit report at the earliest.

8.1 As regards enhancement of security, status report filed by Commissioner of Police, Amritsar, reveals thus :

(i) An additional escort vehicle with requisite manpower, arms and ammunition is to be provided during tour by the learned Judge in Punjab;

(ii) Route and destination to be covered by deployment of police and security during visits in Punjab by the learned Judge in Punjab.

(iii) For movement in Chandigarh, three armed guards in addition to the ones posted at the residence of learned Judge are being provided and one escort vehicle with three armed guards and a driver is also being provided.

8.2 Certain other arrangements have also been proposed.

9. From the stand taken by the State of Punjab with regard to progress in investigation, this Court finds that the same though lies within the exclusive domain of the State, but the threat perception has to be assessed as perceived by the learned Judge. It is well known that large-scale lapses on the part of investigating agencies in the State of Punjab were exposed by various judicial orders passed by the learned Judge since last 12/24 months. This Court, thus, deems it appropriate that the security personnel dealing with security of the learned Judge ought not to be members of Punjab police force, but either of UT Administration or of State of Haryana. Deployment of a neutral police force but not of State of Punjab for securing the movement of the learned Judge shall certainly assuage the feeling of insecurity perceived by the learned Judge.

10. As regards the investigation, UT Administration and the State of Haryana are called upon to suggest appropriate investigating officers not below the rank of Superintendent of Police of a district to conduct investigation in the aforesaid offences.

11. Accordingly, this Court for requisitioning opinion of UT Administration and the State of Haryana, lists this matter on 01.10.2024.

12. The personnel manning security of the learned Judge within and outside Chandigarh shall immediately be changed from Punjab Police to police personnel belonging to either UT Administration or the State of Haryana. Let UT Administration/Haryana Police comply with this direction and file compliance report before next date of hearing.

13. Let copy of this petition along with copies of status reports filed today by the State of Punjab and UT Chandigarh be supplied to learned counsel for the Union of India and the State of Haryana.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

September 27, 2024

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