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

**CWP- 3692 of 2019
Date of decision : April 1, 2024**

Kailash Chand Soni

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :-Mr. Rahul Bhargava, Advocate
 for the petitioner.

Mr. Pankaj Mulwani, DAG., Haryana.

VINOD S. BHARDWAJ, J (Oral)

1. Prayer in the present petition is for issuance of directions to the respondents to remove the name of the petitioner as a Bad Character from Code-B after closing the history sheet and also from the surveillance register maintained by the police.
2. Learned counsel for the petitioner contends that the petitioner is a respectable person in the society and has remained Vice President of Municipal Committee, Narnaul and has been elected thrice as a counsellor by the Committee. He contends that various false FIRs had been registered against the petitioner on account of political rivalry and that he already stands acquitted in the said FIRs that were registered against him. The police has however still incorporated the name of the petitioner in the



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Surveillance register notwithstanding the acquittal/discharge of the petitioner in the said FIRs. He contends that the same has an impairment on the reputation and social acceptance of the petitioner. He thus, prays that his name be deleted from the surveillance register.

3. A reply by way of an affidavit of Vinod Kumar HPS, Deputy Superintendent of Police, Narnaul, District Mahendergarh (Haryana) on behalf of respondent Nos. 1 to 3, has been filed wherein it has been averred that the petitioner was involved in as many as 22 criminal cases and that investigation in FIR No.79 dated 03.02.2023 registered at Police Station, City Narnaul is still pending. It has further been averred in the said reply that the petitioner had earlier approached the High Court by way of **CWP-26626-2018 titled as Kailash Chand Soni Vs. State of Haryana** which was disposed of vide order dated 01.11.2018 directing the police to decide the representation regarding inclusion of the name of the petitioner in the surveillance register. On consideration of the said representation, an order dated 18.01.2019 was passed by the Superintendent of Police and it was held that the petitioner remained habitual of committing offences since 2002 and in a period of 19 years, he was an accused in as many as 18 cases. It pertains to allegations of roughing up with government officials and entering office of Registrar of U.T. and also criminal intimidation and beatings.

4. Learned counsel for the petitioner has controverted that Rule 23.12 deals with treatment of history sheet and that under clause (1) thereof, the history sheet and personal file of the person who is no longer addicted to crime is required to be transferred to his personal file. Further, it provides that under no circumstance shall the history sheet of a person



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who is undergoing sentence be relegated to his personal file. He contends that since the petitioner has already been acquitted, hence, his history sheet shall be required to be confined and history sheet of the person undergoing sentence would not be relegated to his personal file.

5. However, learned counsel for the petitioner fails to explain as to how the said relevant aspect dealing of treatment of history sheet to personal files is relevant for the purposes of taking a decision as to whether name of a person is required to be kept under surveillance register No.10 under Rule 23.4. The treatment of history sheet in personal file is a distinct act as compared to keeping the name in the surveillance register for maintenance law and order.

6. Learned State counsel submits that the surveillance register No.10 is maintained as Per The Punjab Police Rules, Clause 23.4 (3) (b). The relevant provision is extracted as under:-

“23.4.SurveillanceRegisterNo.X.

(1) In every police station, other than those of the railway police, a Surveillance Register shall be maintained in Form 23.4 (1).

(2) In Part I of such register shall be entered the names of persons commonly resident within or commonly frequenting the local jurisdiction of the police station concerned, who belong to one or more of the following classes:

-(a) All persons who have been proclaimed under section 87, Code of Criminal Procedure. 168

(b) All released convicts in regard to whom an order under section 565, Criminal Procedure Code, has been made.



(c) *All convicts the execution of whose sentence is suspended in the whole, or any part of whose punishment has been remitted conditionally under section 401, Criminal Procedure Code,*

(d) *All persons restricted under Rules of Government made under section 16 of the Restriction of Habitual Offenders (Punjab) Act, 1918.*

(3) *In Part II of such register may be entered at the discretion of the Superintendent-*

(a) *persons who have been convicted twice, or more than twice, of offences mentioned in rule 27.29;*

(b) *persons who are reasonably believed to be habitual offenders or receivers of stolen property whether they have been convicted or not:*

(c) *persons under security under section 109 or 110, Code of Criminal Procedure;*

(d) *convicts released before the expiration of their sentences under the Prisons Act and Remission Rules without the imposition of any conditions.*

Note. -This rule must be strictly construed, and entries must be confined to the names of persons falling in the four classes named therein.

23.12. *Treatment of history sheets and personal files.*

(1) *The history sheet of a person who is no longer addicted to crime shall be transferred to his personal file. Under no circumstances shall the history sheet of a person who is undergoing sentence be relegated to his personal file.*

(2) *The history sheet and personal file of a person who takes up his residence permanently in another police station jurisdiction shall be transferred to such police station.*



(3) The history sheet and personal file of a person who dies shall be destroyed.

(4) All disposal action referred to in this rule shall be taken in accordance with the orders of a gazetted officer.”

7. Learned State counsel contends that Rule 23.4 (3) (b) provides that persons who are reasonably believed to be habitual offenders or receivers of stolen property and whether they have been convicted or not may be entered at the discretion of the Superintendent in Part-II of such surveillance register. It is thus, argued that given the criminal antecedents and history of the petitioner, notwithstanding, that he may have been acquitted, yet, the Superintendent of Police may list the name of such person who has a criminal antecedents/history and whose's involvement has been regular, the name may still be retained in such surveillance register.

8. Even though the aforesaid statement has been filed way back in the year 2019 however, no replication controverting the same has been filed over a period of nearly 5 years.

9. I have heard learned counsel for the parties and have gone through the documents on record.

10. The issue primarily deals with the entitlement of police to retain a name of the surveillance register.

11. The object behind maintenance of surveillance register resolves around public safety and society by monitoring individuals who are suspected of involvement in criminal activities or suspicious behaviour or poses a risk to public order. The same is thus a data record which Police

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may refer to for crime prevention, crime investigation, maintenance of law and order and even for security of State.

12. At the same time a person may request deletion of name from such register if the information recorded for updating his name on surveillance register is inaccurate; outdated or is without any legal basis. Besides these may also be an issue of right to providing of an information on surveillance register infringes privacy. At times a limitation may also be provided for retaining a name on such register and a name has to be deleted after such period unless the person engages himself in any other criminal offence or suspicious activity.

13. Undisputedly, the petitioner has had criminal antecedents as per police record, including as late as in the year 2023. The information furnished about criminal cases is not disputed or denied and there is no such information updated as would amount to infringement of right to privacy. It is also not the case of the petitioner that the procedure required in law has not been followed in keeping the name of the petitioner on the surveillance register.

14. Once the said aspects are not alleged, the larger Public Welfare, need for peace and order may require police to keep a tab on some people. Such surveillance registers are usually restricted access documents for aiding the law enforcement agencies only. The same not being a document in public domain, it has very little social impact on reputation of an individual.

15. It is also apparent that as per Rule 23.4 (3) (b) empowers the Superintendent of Police in a given district to enter name of any person at his discretion in such a register if he reasonably believes that he is a



habitual offender. A mere acquittal of a person is not sufficient to hold that the Superintendent of Police cannot believe or have a reasonable belief with respect to a person being a habitual offender or not. Conviction and acquittal of a person would entail certain rights and liberties, however, maintenance of surveillance register for maintenance of law and order has to be seen from a different perspective. The requirement under Rule 24.3 (3) (b) is not relatable to the final outcome of the proceedings initiated and/or registration of cases. The requirement prescribed thereunder is a 'reasonable belief' of a person to be a habitual offender.

16. It is evident from a perusal of the chart as detailed out by the respondents in the reply which has remained uncontroverted that the petitioner is involved in as many as 22 cases. In the 17 years since the year 1983 to the year 2000, there were as many as 19 criminal cases against the petitioner and thereafter, three more FIRs have been registered in the year 2002, 2019 and 2023 as well. It cannot thus, outrightly be said that the Superintendent of Police does not have any reasonable apprehension of the petitioner being a habitual offender and that any such decision is at the discretion of the Superintendent of Police to keep the name of the petitioner in the surveillance register would be bereft of any merit.

17. High Court does not substitute its satisfaction or reasonable belief for that of the concerned Superintendent of Police. The officer at the administrative level is best situated to judge and determine his priorities for maintenance of law and order. Even though there may have been some merit for seeking deletion of same when petitioner approached this Court earlier as there were no criminal antecedents for nearly one and a half decade before that but registration of two criminal cases in four years



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between 2019 to 2023 cannot be ignored by this Court. The said cases not being in challenge before this Court, it would be uncalled for to comment on those cases or to hold them to be bad or politically motivated. The Court not being equipped or being responsible for primarily maintaining law and order, some administrative discretion and play needs to be vested with the ground authorities to enable them to do their job well.

18. Besides, the allegations of false implication due to political reasons cannot be given much weight also for the reason that there is no allegation of notice of mischief against any person. There is no allegation of any institutional malice of bias as well. The larger public cause would thus weigh over the individual's convenience.

19. The present writ petition is accordingly dismissed.

**(VINOD S. BHARDWAJ)
JUDGE**

**April 1, 2024
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Whether speaking/reasoned	Yes
Whether Reportable :	No