

Federal Court



Cour fédérale

Date: 20250902

Docket: IMM-17100-24

Citation: 2025 FC 1448

Ottawa, Ontario, September 2, 2025

PRESENT: The Honourable Madam Justice Saint-Fleur

BETWEEN:

SURAJ CHAUHAN

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

I. Overview

[1] This is an application for judicial review of a decision by the Refugee Appeal Division [RAD] of the Immigration and Refugee Board, dated August 28, 2024 [Decision].

[2] The RAD upheld the Decision of the Refugee Protection Division [RPD], finding that the Applicant is neither a Convention refugee nor a person in need of protection under sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[3] For the reasons that follow, this application is dismissed.

II. Background Facts

[4] The Applicant is a citizen of India. He lived in the state of Haryana. He alleges fear of harm from the police in India because of his association with his Muslim childhood friend. He claims the Haryana police have accused him of trafficking Hindu girls, smuggling weapons, and being a terrorist and traitor.

[5] On April 15, 2022, the Applicant was driving home from a field trip with his friend AM and his friend's girlfriend SS. The vehicle was stopped at a checkpoint by local police and the Applicant and his friends were taken to the police station. The three friends were separated by the police once they arrived.

[6] The Applicant was informed that SS's parents had reported that she had been kidnapped. The police beat the Applicant and alleged that he was involved in trafficking Hindu girls. The police also alleged that the Applicant was involved in arms trafficking as weapons were found in the vehicle.

[7] The Applicant was released from detention the following morning after his parents paid a bribe to the police. While the Applicant was not formally charged, he signed documents and was told not to leave the village.

[8] On May 18, 2022, three men entered the Applicant's house and beat him and his mother. During the incident, the men repeated the allegations of the Applicant trafficking girls and demanded to know AM's location.

[9] On the following day, the Applicant's father decided the Applicant would live with his grandfather in Chandigarh. The Applicant's grandfather subsequently moved him to New Delhi and assisted him in finding a path to Canada.

[10] The Applicant arrived in Canada on July 27, 2022. However, the Applicant alleges that the police have continued to search for him at his relatives' homes.

[11] The RPD rejected the Applicant's claim for protection in its decision dated May 30, 2024, finding an Internal Flight Alternative [IFA] in Mumbai, India.

III. Decision Under Review

[12] The RAD held the RPD was correct in finding the Applicant has a viable IFA in Mumbai, India. The RAD dismissed the Applicant's appeal of the RPD decision finding that the Applicant had not shown that the Haryana police would have the means or motivation to find him in Mumbai and it was not objectively unreasonable for the Applicant to relocate there.

[13] The RAD applied the two-prong test set out by the Federal Court of Appeal, which requires refugees to establish that 1) “there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists” and that 2) “it would not be unreasonable, in all the circumstances, for the claimant to seek refuge there” (*Olusola v Canada (Citizenship and Immigration)*, 2020 FC 799 at paras 7-9, citing *Thirunavukkarasu v Canada (Minister of Employment and Immigration)* (CA), 1993 CanLII 3011 (FCA) at 592–93, citing *Rasaratnam v Canada (Minister of Employment and Immigration)* (CA), 1991 CanLII 13517 (FCA) at 710).

A. *Safety*

[14] The RAD found that the Applicant had not established “with sufficient evidence that the agents of harm have the motivation or the means to locate him to an IFA.”

[15] The RAD considered the following, finding the police lack the means to locate the Applicant through their electronic databases:

- a. The Applicant’s information is not in the Crime and Criminal Tracking Network and Systems [CCTNS] as there were no formal charges laid, no official arrest, no paperwork issued; and the Applicant is not a criminal;
- b. There could be information on the CCTNS from sources other than a First Information Report [FIR] or arrest warrant, but this is insufficient to meet the standard on a balance of probabilities;
- c. The arrest was extrajudicial and the Applicant’s speculation that he is still on the police’s radar is not supported by the evidence;
- d. The National Document Package states that there are no records maintained of extrajudicial arrests in any official criminal database;
- e. It is illogical for corrupt police to keep records of individuals they illegally detain;

- f. It was reasonable for the RPD to find that information would not be in the CCTNS if the individual was unlawfully detained and no FIR was issued (*Kumar v Canada (Citizenship and Immigration)*, 2022 FC 1059);
- g. There is insufficient evidence that the tenant verification system, which the evidence suggests is used variably, could alert the Mumbai police; and
- h. There is no legal access to Aadhaar data in any police database.

[16] The RAD concluded that the Applicant would not be located through his contact with his family. There was insufficient evidence before the RAD to establish that the police had the means or motivation to act on the family's knowledge of his whereabouts. The Applicant would not have to conceal his location from his family and live in hiding and his family's safety would not be at risk by deceiving the police.

[17] The RAD also concluded that the police do not have the motivation to find the Applicant:

- a. The police do not genuinely believe the Applicant is a terrorist otherwise they would not have let him go when he paid a bribe;
- b. There was insufficient evidence before the RAD that the Applicant was wanted for a serious enough crime;
- c. The Applicant is not a person of interest;
- d. There is minimal interstate police communication except for major crimes, such as smuggling, terrorism, and high-profile organized crime, which the Applicant is not charged with;
- e. The Applicant has not been charged with a crime so heinous to pressure the police to locate the Applicant;
- f. The Applicant has never been the subject of a criminal investigation;
- g. The police visited the relatives' home on one occasion when the parents moved;
- h. The matter has not escalated and the police have not searched for the Applicant at his relatives' house since; and

- i. The motive was primarily monetary as the police would collect bribes from the Applicant's father.

[18] The RAD concluded that the interest in the Applicant was localized and that the police do not have the motivation or means to search for him in Mumbai.

B. *Reasonableness*

[19] The Applicant had not demonstrated that it would be unreasonable for the Applicant to seek refuge in Mumbai.

[20] The RAD considered the Applicant's circumstances and profile including his religion, education, employment history, age, and languages spoken:

- a. The Applicant has little education and no skilled work experience;
- b. The Applicant would fall into the percentage of male workers who are not able to meet the standard of living (as referred to in the Applicant's documentary evidence); and
- c. The Applicant has gained work experience in Canada in a factory.

[21] As the Applicant could find similar work in Mumbai, the RAD concluded that it would not be objectively unreasonable for the Applicant to relocate to the proposed IFA.

IV. Issues and Standard of Review

[22] The sole issue is whether the RAD's conclusion that the Applicant has a viable IFA in Mumbai is reasonable.

[23] In this respect, the role of the reviewing court is to examine the decision maker's reasoning and determine whether the decision is based on an "internally coherent and rational chain of analysis" and is "justified in relation to the facts and law that constrain the decision maker" (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 85-86 [*Vavilov*]; *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21 at para 64). A decision will be reasonable if when read as a whole and taking into account the administrative setting, it bears the hallmarks of justification, transparency, and intelligibility (*Vavilov* at paras 91-95, 99-100).

V. Relevant Dispositions

[24] Section 96 of IRPA defines a Convention refugee as:

Convention refugee

96 A Convention refugee is a person who, by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, unwilling to avail themselves of the protection of each of those countries; or

(b) not having a country of nationality, is outside the country of their former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.

Définition de réfugié

96 A qualité de réfugié au sens de la Convention — le réfugié — la personne qui, craignant avec raison d'être persécutée du fait de sa race, de sa religion, de sa nationalité, de son appartenance à un groupe social ou de ses opinions politiques :

a) soit se trouve hors de tout pays dont elle a la nationalité et ne peut ou, du fait de cette crainte, ne veut se réclamer de la protection de chacun de ces pays;

b) soit, si elle n'a pas de nationalité et se trouve hors du pays dans lequel elle avait sa résidence habituelle, ne peut ni, du fait de cette crainte, ne veut y retourner.

[25] Section 97(1) of IRPA defines a person in need of Canada's protection:

Person in need of protection

97 (1) A person in need of protection is a person in Canada whose removal to their country or countries of nationality or, if they do not have a country of nationality, their country of former habitual residence, would subject them personally

(a) to a danger, believed on substantial grounds to exist, of torture within the meaning of Article 1 of the Convention Against Torture; or

(b) to a risk to their life or to a risk of cruel and unusual treatment or punishment if

(i) the person is unable or, because of that risk, unwilling to avail themselves of the protection of that country,

(ii) the risk would be faced by the person in every part of that country and is not faced generally by other individuals in or from that country,

(iii) the risk is not inherent or incidental to lawful sanctions, unless imposed in disregard of accepted international standards, and

(iv) the risk is not caused by the inability of that country to provide adequate health or medical care.

Personne à protéger

97 (1) A qualité de personne à protéger la personne qui se trouve au Canada et serait personnellement, par son renvoi vers tout pays dont elle a la nationalité ou, si elle n'a pas de nationalité, dans lequel elle avait sa résidence habituelle, exposée :

a) soit au risque, s'il y a des motifs sérieux de le croire, d'être soumise à la torture au sens de l'article premier de la Convention contre la torture;

b) soit à une menace à sa vie ou au risque de traitements ou peines cruels et inusités dans le cas suivant :

(i) elle ne peut ou, de ce fait, ne veut se réclamer de la protection de ce pays,

(ii) elle y est exposée en tout lieu de ce pays alors que d'autres personnes originaires de ce pays ou qui s'y trouvent ne le sont généralement pas,

(iii) la menace ou le risque ne résulte pas de sanctions légitimes — sauf celles infligées au mépris des normes internationales — et inhérents à celles-ci ou occasionnés par elles,

(iv) la menace ou le risque ne résulte pas de l'incapacité du pays de fournir des soins médicaux ou de santé adéquats.

VI. Submissions and Analysis

[26] The Applicant submits the RAD erred by failing to consider all the evidence before it, including evidence that the police have continued to search for the Applicant.

[27] The Respondent submits the RAD reasonably found that the Applicant has an IFA in Mumbai, India and that he has not shown that there is a reviewable error.

A. *The Decision Under Review Is Reasonable*

(1) The RAD's Conclusion on the First Prong of the IFA Test Is Reasonable

[28] The Applicant submits the RAD erred by concluding that the Haryana police did not have the means or the motivation to pursue the Applicant in his proposed IFA of Mumbai. According to the Applicant, the RAD did not address two facts that would confirm that the agents of harm have the means and motivation to pursue him in the proposed IFA location.

[29] First, the Applicant points to the RAD's statement that there is insufficient evidence to conclude that the harassment experienced by his father led to his death. He submits that the RAD did not consider that the police crossed state borders to harass his father. The harassment and questioning by the police were so "intolerable" that the Applicant claims it caused his father's death. According to the Applicant, this is evidence of the police's motivation to locate him across state borders.

[30] I respectfully disagree with the Applicant. The RAD addressed the issue of whether the harassment and questioning of the police caused the Applicant's father's death. Simply, the RAD reasonably found that there was insufficient evidence to substantiate, on a balance of probabilities, the Applicant's claim that the harassment and questioning of the police caused his father's death.

[31] Second, the Applicant submits that the RAD failed to consider the evidence that his family was visited more than once by police and that the police continues to raid the residence of the Applicant's cousin who lives in the state of Punjab to determine his whereabouts. According to him, the RAD misinterpreted the motivation and means concepts and instead should have considered the multiple visits to family members as indicative of the police's means of locating him. The Applicant relies on the Court decision in *Bhuiyan v Canada (Citizenship and Immigration)*, 2023 FC 410 [*Bhuiyan*] to make this argument.

[32] The Respondent submits that the RAD did consider this evidence and I agree. The RAD considered the arguments presented by Applicant and acknowledged the jurisprudence to the effect that not being able to share location information with family and friends is tantamount to hiding, which would render the IFA unreasonable (*A.B. v Canada (Citizenship and Immigration)*, 2020 FC 915).

[33] Nevertheless, the RAD also considered the jurisprudence of this Court stating that mere knowledge of the whereabouts of the applicant, assuming the families would disclose it, does not establish a serious possibility of persecution or risk in the proposed IFA locations if the agent of harm has neither the means nor the motivation to act on it (*Singh v Canada (Citizenship and Immigration)*, 2023 FC 996 at para 24).

[34] This Court has reiterated that the fact that an agent of harm acquires knowledge of the Applicant's whereabouts does not establish a risk if the agent is unable or unwilling to act on it (*Singh v Canada (Citizenship and Immigration)*, 2025 FC 459 at para 13). Motivation is not necessarily confirmed by multiple visits, continued interest or disclosure of an applicant's

location. As noted by Justice Ngo in *Verma v Canada (Citizenship and Immigration)*, 2025 FC 693 at paragraph 26 [*Verma*], an applicant must also show that the agents will act on this information. What is required from the RAD is for it to assess the context of the visits as well as the motivation and means of the agents of harm in the particular factual matrix of the case (*Verma* at para 26). In my view, that is what the RAD did in the case at bar.

[35] In *Bhuiyan*, the agents of harm, including a family member of the applicant, were linked to two important political parties as well as Islamic extremists. It is in these specific circumstances that the Court found it unreasonable that such well-connected agents of harm would lack the means to locate the applicants when they continued to inquire about them, even if there was no evidence that violence was involved. This is not the case here.

[36] As pointed out by the Respondent, the Applicant testified that the police had followed him and his family on another occasion when they went to his cousin's (Jasvir Sign) home in Punjab. The Respondent noted that the Applicant was unable to state when that visit occurred, and his testimony was vague and speculative. The RAD did consider the Applicant's argument that the RPD failed to assign the appropriate weight to this cousin's affidavit. Given that this affidavit did not refer to the family being followed by police, and did not mention which police unit, if any, visited the cousin's home, I find that it was reasonable for the RAD to find that even if the RPD accepted that the police had visited, there was insufficient evidence to suggest that the police had escalated/visited since.

[37] In any case, in the Decision under review, the RAD did find that that even if the Applicant's family members were to disclose his location to the police, which he has not

established on the balance of probabilities, he did not demonstrate that the police have the motivation required to track him down in Mumbai to harm him. Given that the RAD considered the Applicant's particular factual context, this finding is reasonable. The RAD took into consideration several elements, which included the fact that the Applicant is not a person of interest for the police in India, has never been subject to a criminal investigation, and there is no FIR or warrant against him; the police do not believe that he was involved with terrorism since they released him upon the payment of a bribe only one day after being detained; and documentary evidence specifies that there is minimal interstate police communication in India except for cases of major crimes and high-profile organized crime.

[38] With regard to the Applicant's argument that the RAD did not consider the evidence about his mother having been beaten during a previous visit from the police, I agree with the Respondent that the RAD is "presumed to have considered the whole of the evidence" and is not required to refer to every piece of evidence in the Decision (*Basanti v Canada (Citizenship and Immigration)*, 2019 FC 1068 at para 24 citing *Florea v Canada (Minister of Employment and Immigration)*, [1993] FCJ No 598 (FCA) at para 1).

[39] I find that the Decision complies with the requirements of justification, transparency and intelligibility imposed by the Supreme Court in *Vavilov*. The Applicant has not demonstrated why RAD's findings were unreasonable, and the Court will accordingly not intervene with the Decision.

VII. Conclusion

[40] The Applicant has not met his burden of establishing that the RAD's decision was unreasonable either in the outcome or in the reasons provided. Therefore, this application for judicial review is dismissed.

[41] Neither party proposed a question for certification, and I agree none arises.

JUDGMENT in IMM-17100-24

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. There is no question to be certified.

"L. Saint-Fleur"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

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