



RPD File: XXXXXX

## NOTICE OF DECISION

[*Immigration and Refugee Protection Act*, subsection 107(1)]  
[*Refugee Protection Division Rules*, rule 67]

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Member

**In the claim for refugee protection of:**

**Date of birth:**

**UCI:**

XXXXXX

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The claim was heard on June 21, 2024.

The Refugee Protection Division determines that **the claimant is a Convention refugee and therefore accepts the claim.**

The reasons for the decision are attached.

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MK, Registry Officer  
For the Registrar  
Tel: 1-866-787-7472

**Certified True Copy  
Copie Conforme**

*K.L.*

IRB Representative  
Représentant de la CISR



RPD File / Dossier de la SPR : XXXXXX

UCI / IUC : XXXXXX

Private Proceeding / Huis clos

## TRANSCRIPT OF THE REASONS AND DECISION

<b>Claimant(s)</b>	XXXXXX	<b>Demandeur(e)s d'asile</b>
<b>Date of hearing</b>	June 21, 2024	<b>Date de l'audience</b>
<b>Place of hearing</b>	Heard by Virtual Hearing	<b>Lieu de l'audience</b>
<b>Date of decision and reasons</b>	June 21, 2024	<b>Date de la décision et des motifs</b>
<b>Panel</b>	XXXXXX	<b>Tribunal</b>
<b>Counsel(s) for the claimant(s)</b>	Simrit Birdi	<b>Conseil(s) du (de la/des) demandeur(e)s d'asile</b>
<b>Designated Representative</b>	N/A	<b>Représentant(e) désigné(e)</b>
<b>Counsel for the Minister</b>	N/A	<b>Conseil du (de la) ministre</b>
<b>Interpreter</b>	XXXXXX	<b>Interprète</b>

**DECISION**

**MEMBER:** XXXXXX , heard 21 June 2024.

5 **INTRODUCTION**

This is the decision of the *Refugee Protection Division* for the following claimant, XXXXXX. You are claiming to be a citizen of India and are claiming refugee protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*. I have considered your testimony and the other evidence in the case, and I am ready to render my decision orally.

10 **INTRODUCTION**

I find that you are a Convention refugee on the grounds of political opinion for the following reasons.

15 **ALLEGATIONS**

You allege that you left India to study in Canada in 2015 because of your involvement in the activities of the Shiromani Akali Dal (Amritsar) political party and after your involvement in a protest in which members of the police killed two (2) protesters, and several others, including yourself, sustained injuries.

20 You say that your history of involvement with the Shiromani Akali Dal (Amritsar) Party and your ongoing public facing support for Khalistan in Canada make it unsafe for you to return to India. You allege that if you return to India that there is a serious possibility that you would face persecution, detention, or death at the hands of state authorities, including the police, due to your political opinions and association with the Khalistan movement. You allege that there is no state protection for you in India and no internal flight alternative where you would be safe.

25 **Identity**

Your personal identity as a citizen of India has been established by your testimony and the copy of your Indian passport filed at Exhibit 2.3. I therefore find that on a balance of probabilities, identity and country of reference have been established.

30 **Nexus**

For a claimant to be considered a Convention refugee, the well-founded fear of persecution must be by reason of one (1) or more of the five (5) enumerated grounds. Race, religion, nationality, membership in a particular social group, or political opinion.

35 I find that there is a link between what you fear and at least one (1) of the five (5) grounds. Namely, political opinion. I have therefore assessed your claim under section 96.

40 **Credibility**

You have alleged the following about your experiences giving rise to your claim, that you have been actively involved with Shiromani Akali Dal (Amritsar) political party since 2012 when you were 16 years old, that on 14th October 2015, you were at a protest in Kot Kapura where many members of the party were sitting in demonstration and a confrontation ensued with members of the BJP Party and police and two (2) persons were killed and you were injured.

45 C. That you got medical help in Dhaka, which included stitches to your head and hand.

D. That your family had a history of persecution, which included the killing of your cousin, a senior member of the All India Sikh Students Federation, being intentionally killed by police in an encounter killing.

E. That your father was concerned for your safety and sent you to Canada to study in 2015, and that you have remained here since.

5 F. That you have been actively in publicly involved in pro-Khalistan activities in Canada.

G. That the police still attended your -- at your home in India asking your family about you, threatening you, harassing your family, and collecting bribes.

10 H. That because of your past activities in India and recent activities in Canada, you are afraid to return to India.

15 I found that your testimony was spontaneous and detailed, and that you were able to address some apparent contradictions and concerns that I had raised. Specifically, about the length of your membership in the party and your delay in claiming. I find that neither of these issues causes me to doubt either your subjective fear or your public facing profile with respect to Khalistan, both of which are important to your claim.

20 Your claim was supported by the following documents. Screenshots of an interview with you on Can-Am news and titled "Khalistani supporter explains the reasons behind their protest in front of a Hindu temple in Surrey, BC." Photographs of you attending and volunteering at various Khalistan related events. Photographs of you at a rally on 18 June 2023 in remembrance of Hardeep Singh Nijjar's death held in front of the Indian Consulate in Vancouver, BC, including a photograph with one Abeer Singh Pannu (ph), a member of the Sikhs for Justice. Photographs of and medical reports related to an injury received at the hands of police at a rally in India in 2015. And documentary of evidence of money transfers, which you  
25 have testified as money to help your family pay bribes demanded as they manage the police back home.

Accordingly, on the whole, in terms of your general credibility, I have found you to be a credible witness, and I therefore accept what you have alleged in your oral testimony and your Basis of Claim.

30 I find that your subjective fear is established by your credible and corroborated testimony. I also find that your claim is objectively well-founded, and that there is a serious possibility that you will be persecuted if removed to India.

35 NDP 2.1 of the 31 May 2024 NDP package for India speaks to significant human rights issues, including credible reports of extrajudicial and transnational killings and harsh treatment in custody by Indian authorities.

40 NDP 12.8 speaks to the vilification of Sikhs advocating for Khalistan as extremists and militants by default. The fact that police keep track of and monitor Khalistan supporters as a political threat to the unity of India, and the fact that police will blame Khalistan activists for crimes in which they cannot find the perpetrator and otherwise falsely implicate Khalistan activists in cases and harass their families and friends. This NDP also speaks specifically to the fact that Sikhs who are suspected of being militant supporters are subject to monitoring and can be subject to detention and torture.

45 Your Counsel has provided further, a variety of documents highlighting the sensitivity of the Indian authorities to the issue of Khalistan and the treatment of the government of those who support this ideal.

In sum, I find that you have established a well-founded fear of persecution.

**State Protection**

5 There is a presumption of state protection unless the country is in a state of complete breakdown. This can be rebutted with clear and convincing evidence that protection would not be reasonably forthcoming or available to you. There is a presumption -- I find that it would be objectively unreasonable for you to seek the protection of the state in light of your particular circumstances and given that state authorities are the agent of persecution. And in this case, the agent of persecution is the state since I have found you face a risk from state authorities. Accordingly, there is no state protection available for you.

**Internal Flight Alternative**

10 I have also considered whether a viable internal flight alternative exists for you. At the commencement of the hearing, I raised the issue of IFA with you and suggested possible IFAs of Mumbai or Kolkata.

15 For a location to be a viable internal flight alternative, it must be a location where two (2) factors are, on a balance of probabilities, met. Firstly, there must be no serious possibility of persecution, or risk to life, or risk of cruel and unusual treatment or punishment, or danger of torture in that location. Secondly, the location must be one in which it is, in all the circumstances, objectively reasonable for you to live.

20 NDP 12.8 tells us that Sikhs with separatist beliefs would be monitored by authorities, and that if their support of Khalistan becomes more broadly known, especially in places outside of Punjab, they would face discrimination, harassment, or worse, and that if the beliefs of a Khalistan activist outside of Punjab were to become known, they would be in danger of violence from local people.

25 On the evidence before me, I find that there is no IFA that exists for you in your country. I find that there is a serious possibility of persecution for you throughout India. This is because Indian authorities respond to calls for Khalistan with a heavy hand. The Indian government is in control of the entire territory of the country, and the treatment meted out to perceived and actual supporters of Khalistan separatists is largely uniform across the country. Therefore, I find that there is no viable internal flight alternative.

**CONCLUSION**

30 Based on the totality of the evidence and my analysis above, I find that you, XXXXXX, to be a Convention refugee, and I accept your claim.

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RPD File / Dossier de la SPR :

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UCI / IUC : XXXXXX

-----REASONS CONCLUDED-----

I HEREBY DECLARE THAT THIS IS A TRUE  
TRANSCRIPT OF THE RECORDING AND THAT I HAVE  
SWORN THE OATH OF SECRECY

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**Certified True Copy  
Copie Conforme**



IRB Representative  
Représentant de la CISR

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For eDecree  
26 June, 2024

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