

Federal Court



Cour fédérale

Date: 20250502

Docket: IMM-6023-24

Citation: 2025 FC 799

Ottawa, Ontario, May 2, 2025

PRESENT: The Honourable Mr. Justice Duchesne

BETWEEN:

RAKESH

Applicant

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] Mr. Rakesh [the Applicant] seeks judicial review of a March 13, 2024, decision by a panel of the Refugee Appeal Division [RAD] [the Decision], which dismissed his appeal from the dismissal of his refugee claim by the Refugee Protection Division [RPD]. The Decision confirmed the RPD's determination that the Applicant is neither a *Convention* refugee nor a person in need of protection pursuant to sections 96 and 97(1) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA].

[2] For the reasons that follow, I find that that the RAD's decision was reasonable in that it was transparent, intelligible and justified in both its rationale and outcome. I also find that the Applicant has failed to demonstrate that the RAD's decision was unreasonable. This application is therefore dismissed.

I. **Factual Background**

[3] The Applicant is a 28-year-old citizen of India. He formerly resided in a village in Karnal, Haryana State. He belongs to the Dalit community, who are considered low caste. He claimed that he was at risk of persecution at the hands of the local police in Karnal as a result of accusations that he was engaged in anti-national militancy and cooperating with anti-national elements and was therefore a threat to national security.

[4] The Applicant was a student in Singapore between 2015 and 2022. He claims that he was more at ease with Pakistani students than Indian students because Indian students discriminated against him and bullied him due to his caste. He claims to have met Nazia (also spelled "Nahzia" in some of the documents filed), a Pakistani student, while in Singapore. He claims that the two began a relationship, fell in love, and cohabitated for a period of time. Nazia returned to Pakistan in December 2021 and the Applicant returned to India shortly thereafter on January 28, 2022. The Applicant claims that he and Nazia remained in touch by phone after they each returned to their home countries.

[5] The Applicant alleges that on April 4, 2022, he was travelling by truck with a Muslim friend to sell his cows when they were stopped at a check post in Ambala. He alleges that they

were taken into custody at the Ambala police station under suspicion of selling cows for slaughter, and drug-related activities. He alleges that the Ambala police charged them with cow slaughtering and drug smuggling. He claims that the Ambala police took their money, obtained records of their fingerprints, photos and signatures, verified their records with the Karnal police and assaulted them because of his caste and because his friend was Muslim. The Applicant did not receive or obtain any paperwork from the Ambala police in connection with this event but testified that he witnessed the Ambala police entering his name into a database through the use of a laptop computer despite omitting such information from his basis of claim form that grounded his application.

[6] The Applicant also alleges that on April 16, 2022, two days after his release from the Ambala police, local Karnal police raided and searched his home. These same police allegedly linked him to anti-national elements in India. How or why the Karnal police linked him to anti-national elements is unclear.

[7] He also alleges that on June 8, 2022, police called him to their main office, questioned him about Islamic militants, anti-national elements, and linked him to the drug mafia. Despite being questioned, and despite the police's abusive language with respect to his community, he alleges that he was not detained and left on his own accord.

[8] The Applicant alleges that he received a call from Nazia in early July 2022 informing him that her cousin, Rubina, and her husband, Ahmed, were visiting India. She requested that the Applicant show them around Delhi, and the Applicant agreed to do so. He alleges that he hosted

them for two days starting on July 11, 2022, touring with them around Delhi and visiting tourist spots.

[9] The Applicant claims that on July 13, 2022, the police raided his home looking for Rubina and Ahmed. They arrested him and brought him to the police station, where they again accused him of aiding Pakistani militants and informed him that Rubina and Ahmed had unlawfully entered India and were secret operatives planning a terror attack in Delhi. He alleges that the police accused him of assisting them and tortured him until he fainted.

[10] The Applicant was released from police custody two days later, on July 15, 2022, with the help of his village council and the payment of a bribe under the condition that he become an informant. He was taken to a private hospital for medical treatment.

[11] The Applicant alleges that he met with a lawyer in July 2022 but was advised not to take legal action against the police because they had his signature from the prior encounter in April 2022.

[12] He fled to Delhi to stay with relatives and with an agent between August 5 and 10, 2022. He claims that during this time the police from Karnal travelled and raided his relatives' homes in Delhi. He alleges that his family members say that that the Karnal police continue to raid his house.

[13] The Applicant left India on August 28, 2022, under a student visa issued on August 1, 2022, and entered Canada. He applied for refugee protection on June 5, 2023.

II. **Decision Under Review**

A. *The RPD Decision*

[14] On November 2, 2023, the RPD found that the Applicant was not a refugee within the meaning of sections 96 and 97 of the IRPA and dismissed his claim. The RPD found that he did not establish that he faced persecution on a *Convention* ground, and did not satisfy, on the balance of probabilities, that he would personally be subjected to a risk to life or a risk of cruel and unusual treatment or punishment, or danger of torture should he return to India. The determinative issue for the RPD was that the Applicant had a viable internal flight alternative (IFA) in Mumbai or Kolkata.

[15] The RPD determined that the Applicant's claim had a nexus to the *Convention* ground of political opinion or an imputed political opinion due to the allegations of being a supporter of Islamic terrorists. The RPD assessed the Applicant's claim under section 96 of the IRPA.

[16] The RPD had and noted multiple concerns regarding the Applicant's credibility but chose not to make a credibility finding because an IFA was found. The RPD did not find the Applicant credible in his testimony that he was formally charged by the Ambala police in April 2022 because he had testified that the charges were "unofficial" and because the Applicant offered no

explanation that otherwise indicated that he had been formally charged. No First Information Report [FIR] had been issued against him and none had been alleged to have been issued.

[17] The RPD recalled the Applicant's testimony that he saw the police input information into a laptop during his April 4, 2022 arrest in Ambala, a detail he had omitted from his initial basis of claim forms. The RPD held that the Applicant's explanation that he could not include this information in his basis of claim forms because it would be too lengthy was unreasonable. The RPD reasoned that the Applicant was represented by counsel when he completed his basis of claim forms and that his witnessing the recording of his particulars in a police database such as the Crime and Criminal Tracking Networks and Systems (CCTNS) would be incredibly important to his claim because it could negate a potential IFA. On the whole of the evidence, including the Applicant's affirmations that he had not been charged and the lack of evidence that a FIR had been issued against him, the RPD found it more likely than not that the claimant's personal information was not in a police database. On this basis, the RPD concluded that he could not be tracked by his alleged agents of persecution through the CCTNS and found elsewhere in India.

[18] The RPD also drew a negative inference of credibility from the Applicant's evidence regarding his relationship with Nazia. The RPD found that the Applicant's testimony about whether he had or could reach Nazia was contradictory and "evolving". The RPD drew a further adverse inference from the fact that the Applicant provided no corroborating evidence of his relationship, noting that it would be reasonable to expect some evidence of the relationship given his testimony that he lived with Nazia, had an amorous relationship with her, and, that they were

in contact after returning to their respective home countries. The RPD did not accept the Applicant's explanation that the sole evidence of their relationship was on his phone and that his phone was seized by the police during one of his arrests, thereby making it impossible for him to access visual or other evidence of their relationship.

[19] The RPD highlighted the discrepancies in and the evolving nature of the Applicant's evidence with respect to his relationship with Nazia and found on the balance of probabilities that the Applicant had not maintained communications with Nazia after leaving Singapore in January 2022.

[20] Given the absence of corroborative evidence of the existence of any relationship between the Applicant and Nazia, the RPD found on the balance of probabilities that the Applicant and Nazia did not have the relationship as alleged.

[21] In light of these key findings, the RPD further determined that the Karnal police, the Applicant's alleged agents of persecution, would have neither the means nor the motivation to locate him in the proposed IFA location. The RPD determined that the police would not have the means to locate the Applicant in the IFA location because of a) the Applicant's evidence that his name had been input into a police database during an extrajudicial arrest, i.e. an arrest without charges being laid, was not credible; and, b) objective evidence contained in the National Documentation Package [NDP] for India reflected that extrajudicial arrests would not be captured in official criminal databases such as the CCTNS. The RPD determined that the

Applicant had not shown on a balance of probabilities that he was traceable as a criminal or person of interest through official criminal databases or through the tenant verification database.

[22] The RPD also determined that the Applicant's evidence that he was released in July 2022 after being held in custody for two or three days suggests that police interest in him with respect to allegations of terrorism was very low for two overarching reasons: a) the Applicant was released upon the payment of a bribe, and, b) the police could have, but elected not to, kept him detained for up to 180 days without charge pursuant to the *Unlawful Activities Prevention Act* if he was truly a person of interest in connection with terrorism and anti-national elements. The RPD found that the Applicant's evidence did not demonstrate the Karnal police's motivation to track him to the proposed IFA.

[23] The RPD found that the Applicant had not established that relocation to the proposed IFA would be unreasonable in the circumstances. On the second prong of the IFA test, they noted that the Applicant's alleged difficulties in finding employment would not jeopardize the reasonableness of the IFA and failed to satisfy the high threshold required to establish that the IFA was unreasonable as he had not demonstrated that his life and safety would be jeopardy in the IFA location.

B. *The Applicant's Appeal Submissions to the RAD*

[24] The Applicant appealed the RPD's findings of a viable IFA.

[25] In his memorandum the Applicant argued that the RPD's credibility determination as to whether he was ever "charged" by police in April 2022 and whether he had a relationship with Nazia and kept in contact with her after January 2022 had an impact on their determination that an IFA location existed and was appropriate. The Applicant relied on the NDP for India and argued that its objective content suggests that his personal information could be in some police databases, and that that possibility would make him traceable to the proposed IFA location. The Applicant also reiterated other arguments that he had made before the RPD to persuade the RAD that the RPD had committed errors.

[26] On February 2, 2024, the RAD requested submissions on credibility both generally and with specific regard to the RPD's findings that the Applicant was not formally charged by police, that his personal information was not input into a police database, and that he did not have a relationship with Nazia.

[27] The Applicant provided further submissions on February 13, 2024. The Applicant alleged that he reasonably responded to the RPD's questions about being "charged", which to him meant that he was arrested, fingerprinted, had his money confiscated and was threatened for being involved with Pakistani agencies. He argued that he would not need to be "formally charged" for his personal information to be included in the CCTNS because the NDP for India contained some information which reflected that "all police data" on persons of interest including fingerprints as well as police station daily diaries may be uploaded into the CCTNS. He argued that the fact that his Karnal home was raided after his April 4, 2022 arrest in Ambala established that he has a searchable police record.

[28] Finally, regarding his relationship with Nazia, the Applicant impugned the RPD's reasoning as speculative. He argued that he is not obliged to provide corroborating evidence to prove his relationship because the RPD had no reason to doubt his credibility on this point, and, because he reasonably explained that he only had her pictures and messages saved to a phone that had been seized by the police.

C. *The RAD Decision*

[29] The RAD dismissed the Applicant's appeal on March 13, 2024. The RAD found that the determinative issue was credibility. The RAD found no need to address the IFA issue because the Applicant did not credibly establish the "foundational" elements of his claim, specifically:

- i. that he was formally charged by the police in Ambala in April 2022 or that his name was entered into the CCTNS database;
- ii. that he had a relationship with Nazia; and,
- iii. that he was perceived by the police to be involved with Nazia's cousins and other militants.

[30] The RAD considered the entirety of the evidence before the RAD afresh and noted that the Applicant's testimony as to how and whether the police laid charges against him in April 2022 was "inconsistent and evolving on its face". The RAD highlighted the lack of other credible documentary evidence to corroborate his arrests and whether he had been charged at all. The RAD noted that the police took money and received a bribe to release the Applicant. The RAD discussed objective evidence contained in the NDP that a FIR is registered when an offender is formally charged with a crime in India and noted the Applicant's testimony that no FIR was

registered in his regard. The RAD found that the only evidence corroborating his arrests were in an affidavit from his father and the village Sarpanch, both of which repeat, “almost verbatim”, the allegations in his basis of claim document.

[31] The RAD panel concluded as the RPD had that, on a balance of probabilities, the Applicant’s arrests were extrajudicial and that the police would not leave any trace in any database or in any other place (including the daily diary or general diary of the police station) accessible by other persons who may threaten him with unwanted scrutiny.

[32] The RAD considered the Applicant’s claim of having seen police enter his personal information into a laptop and, further, his position that he would not need to be “officially charged” to have his personal information entered into the CCTNS. The RAD found on a balance of probabilities that the police having taken the Applicant’s photograph, fingerprints and signature does not mean that his personal information had been entered into in a police or persons of interest database. In reaching this conclusion, the RAD considered the circumstances of the Applicant’s extrajudicial arrests and objective evidence in the NDP in which the Executive Director of the South Asia Terrorism Portal and the Institute for Conflict Management indicated in their 2023 Response to Information Request that no official records of extrajudicial arrests are maintained in official criminal databases in India including the CCTNS.

[33] The RAD found that the Applicant’s alleged relationship with Nazia and the contact between the Applicant and Nazia’s cousin and husband were uncorroborated and not credible. The RAD disagreed with the Applicant’s argument that he is not required to provide

corroborating evidence of his relationship with Nazia because the RPD had no reason to doubt his credibility. The RAD recited the Applicant's alleged history with Nazia and considered his explanations to the RPD as to why he could not provide any evidence of their relationship, including on social media accounts active since 2015, because his phone was seized by police and he can no longer access those accounts. The RAD panel relied on *Lawani v Canada (Citizenship and Immigration)*, 2018 FC 924 at para 25 [*Lawani*], in support of its finding that a negative credibility inference may be drawn where corroborative evidence should be reasonably available to establish essential elements of a claim and there is no reasonable explanation for its absence. The RAD agreed with the RPD that, in the circumstances, it was unreasonable that the Applicant had no objective documentary evidence to corroborate Nazia's existence or his relationship with her considering the length and seriousness of their alleged relationship and the Applicant's ongoing social media activity during and after their relationship.

[34] The RAD found that the Applicant's lack of credibility regarding Nazia extended to his claims regarding her cousin and husband and found it more likely than not that they did not visit him in July 2022.

[35] The RAD also noted the inconsistency in the Applicant's claim that he was linked to anti-national militants during his April 2022 arrest, despite that Nazia's cousins did not "enter the picture" until July 2022. The RAD also identified other inconsistencies related to his April 2022 arrest as well as to the whole of the chronology of his allegations that he was associated with Islamic militants and anti-national elements.

[36] Finally, the RAD found that the Applicant lacked credibility concerning the foundational element of his claim for protection, specifically, the existence of Nazia, of their relationship, and the visit by her cousin and husband in July 2022, and that that this lack of credibility extended to all documentary evidence presented to corroborate his version of the facts. The appeal was dismissed.

III. **Issues**

[37] The issue before the Court is whether the RAD's decision is reasonable in that it is intelligible, rational and justified in its rationale and outcome.

IV. **Standard of Review**

[38] The parties submit, and I agree, that the standard of review applicable to the RAD's decision and credibility assessment is reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 10 [Vavilov]; (*Aquebor v Canada (Minister of Employment and Immigration)* [1993], 160 NR 315 (FCA) at para 4; *Gomez Florez v Canada (Citizenship and Immigration)*, 2016 FC 659 at para 20; *Soorasingam v Canada (Citizenship and Immigration)*, 2016 FC 691 at para 17).

[39] The reasonableness standard requires that this court take a deferential approach to the RAD's decision and to credibility findings as determined by the RAD and RPD because those findings go to the very core of their jurisdiction. This is especially so if the RPD's credibility findings are found to be correct by the RAD on appeal (*Lawani* at paras 13-16).

[40] The reviewing court should not intervene in the RAD's decision if that decision is reasonable and bears the hallmarks of reasonableness. The decision under review will be reasonable and reasonable in its rationale and outcome if it is justified, transparent and intelligible in relation to the relevant factual and legal constraints that bear upon the decision (*Vavilov* at para 99).

[41] The burden is on the Applicant to show that the decision under review is unreasonable. The Applicant must satisfy the Court that there are sufficiently serious shortcomings in the decision such that it cannot be said to exhibit the requisite degree of justification, intelligibility and transparency in its rationale and outcome. Any alleged flaws or shortcomings must be more than merely superficial or peripheral to the merits of the decision. It would be improper for a reviewing court to overturn an administrative decision simply because its reasoning exhibits a minor misstep. Instead, the reviewing court must be satisfied that any shortcomings or flaws relied on by the party challenging the decision are sufficiently central or significant to render the decision unreasonable (*Vavilov* at paras 15 and 100).

V. **Positions and Analysis**

A. *Applicant's Position*

[42] The Applicant's arguments largely repeat the arguments he had made before the RAD on appeal. He argues that the RAD: a) unreasonably concluded that he had not credibly established his relationship with Nazia; and b) erred in putting too much weight on his interpretation of whether he had been charged by local police in India.

[43] The Applicant argues that his relationship with Nazia “goes to the heart” of his claim, given that it spurred the encounter with her cousin that subsequently led to his July 2022 police encounter. He argues that the RAD applied the case law incorrectly and reversed the presumption of truth established in *Maldonado v Minister of Employment and Immigration*, 1979 CanLII 4098 (FCA) [*Maldonado*], by requiring him to corroborate his relationship with Nazia when there was no reason to doubt his truthfulness as to the relationship. He argues that the RAD (and the RPD before it) erred when it made an adverse credibility finding based on the absence of information or evidence that corroborates the existence of his relationship with Nazia (*Triana Aguirre v Canada (Citizenship and Immigration)*, 2008 FC 571 at paras 16-22, 26 [*Triana Aguirre*]).

[44] He argues that he had adequately explained to the RAD the absence of corroborating documentation to show his relationship with Nazia and had adequately explained his efforts in locating such corroborating documentation. In particular, he reiterates and highlights that:

- a) any corroborative evidence of the relationship he would have had was on his phone that was seized by the police in India in July 2022, and was not in his possession;
- b) any electronic ID’s or passwords that he could have used to access his social media accounts where there would have been evidence of his relationship with Nazia were also on the phone that was seized and was not in his possession; and,
- c) he attempted to create new social media accounts but was unable to locate Nazia’s profile.

[45] The Applicant also argues that the RAD erred and was unreasonable in finding that he had not credibly established that he had been charged with a crime. He submits that the RAD misapprehended the evidence tendered and that, in any event, he was under no obligation to prove that he had in fact been charged with a crime in order to establish his claim. He argues that the RAD was incorrect to require him to credibly establish that he had charged with a crime, because the agents of persecution have the means to track him in the proposed IFA even if he was not charged. In support of this argument, the Applicant argues that the RAD misapprehended the objective evidence available in the NDP which suggests that extrajudicial arrests are not recorded and that the release from custody upon the payment of a bribe has absolutely no bearing on whether the arrest was legal or not.

[46] The Applicant also argues that the RAD erred in its understanding of the existing legal structure surrounding FIRs and the CCTNS in India. He pleads that, in light of objective evidence in the NDP, it is conceivable that an FIR for treason could have been issued against him without his being aware of it because sensitive FIRs, such as those relating to terrorism, are not necessarily uploaded into a police database or the official website of the State Government. It follows, on the Applicant's argument based solely on various sections of the NDP without specific connection to the Applicant, that he could be a person of interest in the CCTNS without his knowledge and could be at risk should he return to India. He argues that the Applicant's evidence that he had been arrested in different locations by different police at different times, and that his and his relatives' homes were searched at different times and in different cities establishes that it is possible that the Applicant can be tracked through the CCTNS.

[47] Finally, the Applicant argues that the RAD unreasonably interpreted evidence available in the NDP and made unsupported and speculative conclusions in its analysis of his credibility.

B. *Respondent's Position*

[48] The Respondent argues that the RAD reasonably considered and upheld the RPD's findings and that the Decision is reasonable.

[49] The Respondent argues that it was reasonable for the RAD to conclude that the Applicant's evidence as to whether he had been charged, that an FIR had been issued against him by the police, and that his personal information was included in a police database was not credible because it evolved from statements made in the Applicant's basis of claim form as the proceedings progressed.

[50] The Respondent agrees with the Applicant that his relationship with Nazia goes "to the heart" of his claim as their relationship led to the meeting between the Applicant and her cousin which led to the Applicant's alleged detention and arrest in July 2022. He argues that the Applicant's various explanations as to why he did not provide evidence to corroborate his testimony about Nazia's existence or their relationship supports the RAD's reasonable determination that the Applicant's evidence was not credible on these issues.

[51] The Respondent argues that the Applicant's reliance on the presumption of truthfulness is misplaced because the RAD reasonably sought corroborative evidence of his relationship in light of pre-existing doubts about the Applicant's credibility given other "omissions and

discrepancies” in his testimony, including as pertains to his April 2022 arrest. The Respondent relies on *Zahiri v Canada (Citizenship and Immigration)*, 2022 FC 1025 at paras 28-29 [*Zahiri*] to argue that the RAD does not err for seeking corroborative evidence when a claimant’s presumption of truth has been rebutted by the Applicant’s inconsistent testimony. In such circumstances, the RAD could consider the absence of corroborative evidence and lack of a reasonable explanation for that absence in further credibility findings.

[52] The Respondent argues that the Applicant has not met his burden to establish that the Decision is unreasonable.

C. *Analysis*

[53] The Applicant’s overarching argument is that this Court should reassess and reweigh the evidence already considered by the RAD in determining that the Applicant was not credible on the essential elements of his claim. The Supreme Court of Canada and the Federal Court of Appeal are clear that reassessing or reweighing evidence considered by the decision-maker is beyond the role of a reviewing court. The reviewing court can only interfere where the decision-maker committed fundamental errors in fact-finding that undermine the acceptability of the decision under review (*Vavilov* at para 125; *Doyle v Canada (Attorney General)*, 2021 FCA 237 at para 3).

[54] The Applicant has not established a fundamental error in the RAD’s fact-finding or in its application of the law with respect to credibility that would justify this Court’s intervention.

[55] The RAD correctly identified the applicable principles as to credibility, as summarized by Justice Gascon in *Lawani* at paras 20-26, and applied those principles correctly in the light of the evidence led. The RAD considered the Applicant's evidence, its shortcomings and inconsistencies as well as his explanations of the same. The RAD also concluded that the Applicant's explanations for those inconsistencies were unsatisfactory. The RAD determined that the inconsistencies in the Applicant's evidence were sufficient to rebut the presumption of truthfulness and gave rise to the need for corroborative evidence on the essential elements of his claim. It was open to the RAD to determine as it did. The RAD did not reverse the presumption of truthfulness described in *Maldonado* by doing so (*Su v Canada (Citizenship and Immigration)*, 2015 FC 666 at para 11, citing *Adu v Canada (Minister of Employment and Immigration)*, [1995] FCJ No 114 (FCA) and *Lin v Canada (Citizenship and Immigration)*, 2010 FC 183 at para 19).

[56] The RAD was reasonable in concluding that the Applicant's evidence of Nazia's existence and of their relationship was not credible given his general lack of credibility and that their relationship was a necessary element to support his claims. Given the Applicant's inconsistent testimony about the events supporting his claim both generally, and in light of his admitted social media activity in the current "tech age", it was not unreasonable for the RAD to conclude that corroborative evidence of Nazia's existence and of their relationship should reasonably be available from his social media accounts despite the seizure of his phone. The alleged loss of passwords and related electronic information necessary to retrieve such corroborative evidence and the Applicant's inability to remember or recover those passwords and electronic ID information did not sufficiently or credibly explain why corroborative evidence

could not be obtained or produced by the Applicant. The RAD considered the Applicant's explanation and evidence and found it to be lacking. The RAD was not unreasonable in finding that the Applicant's was not credible with respect to these facts and issues (*Ismaili v Canada (Citizenship and Immigration)*, 2014 FC 84 at paras 33-35, *Triana Aguirre* at para 17; *Senadheerage v Canada (Citizenship and Immigration)*, 2020 FC 968 at para 27; *Triana Aguirre* at paras 22, 26).

[57] It was reasonable for the RAD to conclude that the Applicant's evidence of an arrest related to his alleged association with Nazia's cousin and her husband in July 2022 was not credible on the balance of probabilities as it flowed from the existence of his relationship with Nazia which was found to not be credible. The Applicant's lack of credibility on these essential elements of his claim is further supported by the absence of a FIR being issued in connection with the alleged arrest (or with respect to any alleged arrest), and objective evidence found in the NDP that particulars of extrajudicial arrests are not recorded in the CCTNS or other databases.

[58] The RAD considered the Applicant's evidence with respect to his particulars being included in a database and rejected it because of its evolution throughout the proceeding. The RAD's rationale for rejecting what it determined was not credible evidence is clearly set out in its decision and is reasonable. The Applicant's argument that the RAD misapprehended the evidence tendered in this regard must be rejected.

[59] Contrary to the Applicant's argument, the RAD did not require the Applicant to prove that he had been charged with a crime. The RAD sought evidence from the Applicant to establish

the essential elements of his claim that he would be persecuted or at risk of danger or harm if returned to India. The Applicant's assertion that the police would find and persecute him because they perceived him to be engaged in anti-national militancy, cooperating with anti-national elements and a threat to national security is an essential element of his claim. Any credible evidence that the Applicant had been charged with a crime during his arrests, including evidence that an FIR had been issued against him, would support the Applicant's claim that he was perceived by police in the manner alleged. It would also support his claim that the police have some means and motivation to find and persecute him. The absence of any such evidence, considered alongside other inconsistencies in the evidence of his alleged arrests, as well as the existence or inexistence of events and relationships which might have given rise to the allegations made during the arrests, reasonably justified the RAD's finding that the police would not track the Applicant across India. The record before the RAD undermined the Applicant's claim that he was perceived by the police as a person engaged in anti-national conduct in a manner that puts him at risk.

[60] The RAD reasonably concluded that the Applicant's evidence regarding allegations that he was involved with anti-national militants was not credible.

[61] I find that the RAD was reasonable in considering the objective evidence contained in the NDP regarding FIRs, when they are issued, and if and when particulars of extrajudicial arrests are entered into the CCTNS database in India. The RAD's conclusion that the taking of the Applicant's photograph, fingerprints and signature does not mean that he was entered in a police

or persons of interest database given the circumstances of his extrajudicial arrests was reasonable and justified by the evidence before it.

[62] The RAD did not specifically engage with the Applicant's argument and evidence that the fact that he had been arrested in different locations by different police at different times, and that his and his relatives' homes were searched at different times and in different cities establishes that it is possible that the Applicant can be tracked through the CCTNS without an FIR having been issued in his regard. The RAD was not required to make an explicit finding on this subordinate element of the Applicant's broader argument with respect to tracking because it had determined that the evidence and argument that the Applicant's particulars had been included in the CCTNS was not credible (*Vavilov*, at para 128). The absence of an explicit finding on this point by the RAD is a minor misstep, in my view, and does not make the Decision unreasonable.

VI. **Conclusion**

[63] The Applicant has not established any fatal flaws in the Decision nor any sufficiently serious shortcomings in the RAD's assessment of the evidence before it such that the Decision is unjustified by that evidence or is otherwise unreasonable in light of the facts and the applicable law. I find the Decision to be reasonable in its rationale and outcome and justified.

[64] This application will therefore be dismissed.

[65] The parties agree, and I agree with them, that there is no question to be certified in this proceeding.

JUDGMENT in IMM-6023-24

THIS COURT’S JUDGEMENT is that:

- 1) The application for judicial review is dismissed.
- 2) There is no question to be certified.
- 3) The whole, without costs to any party.

“Benoit M. Duchesne”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-6023-24

STYLE OF CAUSE: RAKESH v. MCI

PLACE OF HEARING: MONTREAL, QUEBEC

DATE OF HEARING: APRIL 16, 2025

ORDER AND REASONS: DUCHESNE, J.

DATED: MAY 2, 2025

APPEARANCES:

Luciano Del Negro FOR THE APPLICANT

Bruno Olivier Bureau FOR THE RESPONDENT

SOLICITORS OF RECORD:

Me Luciano G. Del Negro FOR THE APPLICANT
Montréal, Québec

Attorney General of Canada FOR THE RESPONDENT
Montréal, Québec