

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

**CRWP No. 697 of 2015
Date of decision : 11.05.2015**

Ram Kishan

..... Petitioner

Versus

State of Punjab and others

..... Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr.R.K.Dadwal, Advocate
for the petitioner.

Mr. Neeraj Yadav, AAG, Punjab.

- 1. Whether Reporters of local papers may be allowed to see the judgement?Yes**
- 2. To be referred to the Reporters or not?Yes**
- 3. Whether the judgement should be reported in the Digest?Yes**

DARSHAN SINGH,J(Oral)

The present petition has been filed under Article 226 of Constitution of India read with Section 482 Cr.P.C for issuance of appropriate directions to respondent no.2 to get release the detenue namely Harish Kumar, the son of the petitioner from the illegal detention of respondent no.3.

2. It was pleaded that on 30.04.2015, at about 9.00

a.m, the officials of CIA Staff, Hoshiarpur came to the house of the petitioner and inquired about Naresh Kumar, the son of the petitioner. Petitioner informed them that he had already disowned Naresh Kumar. His other son Harish Kumar had come from abroad and was standing there. The petitioner showed copy of the passport as well as other documents regarding Harish Kumar to the police. They release him, but thereafter at 11.00.am again the police officials came to his house and forcibly picked up Harish Kumar, the son of the petitioner and also carried his passport and other documents. The officials of CIA Staff, Hoshiarpur asked him that they wanted to involve his son Naresh Kumar in a case under the provisions of Narcotic Drugs & Psychotropic Substances Act, 1985 and he should produce Naresh Kumar before them, then they will release Harish Kumar. Hence this petition.

3. A warrant officer was appointed by this Court vide order dated 01.05.2015 with a direction to visit the premises of CIA Staff, Hoshiarpur or any other place as pointed out by the petitioner to search the detainee. The report of the Warrant Officer (Resham Singh) dated 05.05.2015 has been received.

4. Respondents no.1 to 3 have also filed the reply by way of affidavit of Hardeep Kumar, Deputy Superintendent

of POlice, Sub-Division Chabbewal, District Hoshiarpur, wherein all the allegations levelled in the petitioner have been controverted.

5. I have heard Mr. R.K.Dadwal, Advocate learned counsel for the petitioner, Mr. Neeraj Yadav, learned State counsel and have carefully gone through the record of the case.

6. Learned counsel for the petitioner contended that Harish Kumar, the son of the petitioner was illegally detained by the officials of CIA Staff, Hoshiarpur. But, he was released immediately before the visit of the Warrant Officer. He contended that the passport and other documents of Harish Kumar are still in custody of the police officials. He contended that it is a matter where the judicial enquiry should be ordered with respect to the possession of those documents and harassmt of Harish Kumar, the son of the petitioner.

7. On the other hand, learned State counsel pleaded that Harish Kumar was never detained by the police, which is also evident from the report of Warrant Officer. He further contended that the Deputy Superintendent of Police has categorically mentioned in his affidavit that the passport or any other document of Harish Kumar are not in possession of the police. He contended that this petition has become

infructuous.

8. I have duly considered the aforesaid contentions.

9. As already mentioned Sh.Resham Singh was appointed as a Warrant Officer in this case. He has visited CIA Staff, Police Station Model Town, Police Station City and Sadar Hoshiarpur to find out the detainee. The operative part of his report reads as under:-

“I received copy of the order along with summons on the same day at 05.40.p.m and immediately left for Hoshiarpur alongwith the petitioner. We reached CIA Staff, Hoshiarpur at 09.50.p.m where PRHC Ashok Kumar and MHC Iqbal Singh were found present to whom I disclosed my identity and apprised him about the purpose of my visit. Then I checked the lock up and adjoining rooms of the said CIA Staff to find the alleged detainee namely Harish Kumar in the presence of the petitioner, but the alleged detainee was not found present there either detained or otherwise. On my query to aforesaid police officials regarding the whereabouts of the alleged detainee, they disclosed that the alleged detainee has neither been arrested nor is wanted in any case at this stage. On the other hand the petitioner kept on insisting that Incharge and other officials of the CIA had picked up his son i.e. alleged detainee on 30.04.2015 at 11.a.m. However officials of CIA Staff refuted the said allegations and stated that they never picked the

alleged detainee. Then we left the premises of CIA Staff at 10.10.p.m.

Thereafter as desired by the petitioner, I alongwith the petitioner also visited other police stations namely Model Town, City and Sadar Hoshiarpur to find the alleged detainee. There also I checked the lock up and adjoining rooms of the said police stations. But, there also the alleged detainee was not found present either detained or otherwise. Moreover the Duty Officer present at the aforesaid police stations also disclosed that the alleged detainee has neither been arrested nor is wanted in any case at this stage. Since no other place where the alleged detainee may have been detained, was pointed by the petitioner, therefore, I left back for Chandigarh.”

10. In view of the aforesaid report of the Warrant Officer, Harish Kumar the alleged detainee was not found in custody of the police officials as alleged in the petition. The allegations mentioned in the petition that passport and other documents of the petitioner were taken away by the police officials have also been specifically denied in the affidavit filed by Hardeep Kumar, Deputy Superintendent of Police, Sub-division Chabbewal, District Hosharpur. I do not find any substance in the contentions raised by learned counsel for the petitioner that the judicial enquiry should be ordered in the matter. In view of the report of the Warrant

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Officer as the alleged detenue was not found illegally detained in custody of the police officials. So, the present petition has become infructuous and is dismissed, as such.

11.05.2015

s.khan

**(DARSHAN SINGH)
JUDGE**