

**HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

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**(1)CWP No.88 of 2014 (O&M)**  
**Date of Decision: 07.10.2015**

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Jagjit Singh Chahal ... Petitioner  
VS.  
State of Punjab & Ors. ... Respondents

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**(2) CRM-M-17238-2014 (O&M)**

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Manpreet Singh @ Mani Gill ... Petitioner  
VS.  
State of Punjab Ors. ... Respondents

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**(3) CRM-M-12029-2013 (O&M)**

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Inderjit Singh ... Petitioner  
VS.  
State of Punjab & Ors. ... Respondents

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**(4) CRM-M-43597-2013 (O&M)**

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Sarabjit Singh ... Petitioner  
VS.  
State of Punjab & Ors. ... Respondents

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**(5) CRM-M-2915-2014 (O&M)**

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Sarabjit Singh ... Petitioner  
VS.  
State of Punjab & Ors. ... Respondents

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**(6) CRM-M-29757-2013 (O&M)**

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Baljit Singh ... Petitioner  
VS.  
State of Punjab & Ors. ... Respondents

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**(7) CRM-M-17971-2014(O&M)**

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Satinder Dhama ... Petitioner  
VS.  
State of Punjab & Ors. ... Respondents

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**(8) CRM-M-26436-2014 (O&M)**

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Satinder Dhama ... Petitioner

VS.

State of Punjab &amp; Ors.

... Respondents

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**(9) CRM-M-32827-2014(O&M)**

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Maninder Singh @ Bittu

... Petitioner

VS.

State of Punjab &amp; Ors.

... Respondents

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**(10) CWP-341-2014 (O&M)**

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Balchhinder Singh

... Petitioner

VS.

State of Punjab &amp; Ors.

... Respondents

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**CORAM: HON'BLE MR.JUSTICE SURYA KANT**  
**HON'BLE MR.JUSTICE P.B. BAJANTHRI**

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*1. Whether Reporters of local papers may be allowed to see the judgment?*

*2. To be referred to the Reporters or not?*

*3. Whether the judgment should be reported in the Digest?*

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Present: Mr. Vikram Chaudhri, Senior Advocate with  
 Mr. Harshit Sethi & Ms. Isha Goyal, Advocates  
 Dr. Anmol Rattan Sidhu, Senior Advocate with  
 Mr. VD Goyal & GS Nahel, Advocates  
 Mr. CS Bakshi, Advocate,  
 Mr. Pradeep Virk, Advocate,  
 Mr. Manjit Singh, Advocate,  
 Mr. Ranjan Lakhanpal, Advocate,  
 for the petitioner

Ms. Reeta Kohli, Addl. AG Punjab with  
 Mr. Vaibhav Sharma, DAG Punjab

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**SURYA KANT, J.**

(1) By this common order, we propose to dispose of the captioned cases. Though the allegations and facts averred in each case differ from each other and the stated grounds also vary, there is nevertheless a commonalty of interests as all the petitioners have sought an independent investigation 'preferably by the Central Bureau of Investigation' into (i) FIR No.45 dated 03.03.2013, u/s 420/467/468/471 IPC, 21/61/85 of NDPS Act and

25/54/59 of Arms Act, registered at Police Station Fatehgarh Sahib; (ii) FIR No.56 dated 15.05.2013 u/s 379/411/473/120-B and 21/22/61/85 of NDPS Act, 1985, registered at Police Station Banur; (iii) FIR No.50 dated 03.04.2013 u/s 18/21/22/61/85 of NDPS Act, 25/54/59 of Arms Act, registered at Police Station Urban Estate Patiala; (iv) FIR No.292 dated 26.10.2013 u/s 307/34 IPC, 25/54/59 of Arms Act and 21/22/61/85 of NDPS Act, registered at Police Station Civil Lines, Patiala; (v) FIR No.42 dated 22.03.2013 u/s 22/61/85 of NDPS Act registered at PS Sirhind; and (vi) FIR No.69 dated 08.03.2013 u/s 21/22 of NDPS Act and Sec. 13 of FEMA Act, 1999 registered at Police Station Gobindgarh, District Fatehgarh Sahib. Since the prosecution has also pleaded that the FIRs are interlinked, we propose to decide these cases by a common order. For convenience, the facts of each case are briefly stated.

**(1) CWP No.88 of 2014**

**(Jagjit Singh Chahal v. State of Punjab)**

(2) The petitioner seeks entrustment of the investigation in case FIR No.56 dated 15.05.2013 registered u/s 379/411/473/120-B, IPC, and 21/22/61/85 of NDPS Act at Police Station Banur, District Patiala to the Central Bureau of Investigation so as to unearth a diabolical nexus involving the *crème de la crème* officials, ministers, bureaucrats, leaders of political parties, and other persons occupying the upper echelons of power - with the drug racketeers in the State of Punjab.

(3) The petitioner has alleged that the ongoing investigation by a Special Investigation Team (SIT) under the supervision of the Senior Superintendent of Police, Patiala is intended to merely sensationalize the issue rather than reaching the truth through a free, fair, impartial and unprejudiced investigation.

(4) The petitioner is an entrepreneur who claims that his commercial success has become an eye-sore for many vested

interests. He was previously running a Transport Company in Amritsar but on account of serious disputes “with a known politician and a former MLA of the area”, the petitioner was falsely implicated in certain cases and faced a grave threat to his life. In 2002, he approached this Court in CRM-20558-M-2002 and obtained a direction to protect his life and liberty. A further direction was issued holding that in the event of a non-bailable offence being registered against the petitioner, a four days’ written notice shall be given to him.

(5) The petitioner wound up the transport business and launched a tyre franchise with his brother in 2007. They also set up the following two pharmaceutical units for manufacturing medicines in the State of Himachal Pradesh:-

- (i) M/s Montek Bio Pharma, Plot No.45, Himuda Industrial Area, Bhatolikalan, Baddi, District Solan (HP) (in the capacity of partner);
- (ii) M/s MBP Pharmaceuticals P.Ltd. K.No.139/2, Village Jodhapur Barotiwala, District Solan (HP) (in the capacity of Director)

(6) Both these units have been granted licences by the State Drugs Controller Himachal Pradesh (P3 & P4), and the Narcotic Control Bureau for manufacture, distribution, sale, purchase, possession, storage, consumption of controlled substances in Schedule ‘A’ under the NDPS Act relating to (i) Ephedrine and its salts; and (ii) Pseudoephedrine and its salts (P5 colly).

(7) Both the manufacturing units are said to be in strict compliance of the stringent conditions referred to in Schedule ‘A’ of the Narcotic Drugs and Psychotropic (Regulation of Controlled Substances) Order, 2013 for the manufacture, possession and sale etc. of the controlled substances which are used to manufacture anti-cold, cough expectorant medicines in the form of tablets,

capsules and liquids etc. The manufacturing units have been duly certified for following good manufacturing practices and their licences have been renewed periodically.

(8) The State Drugs Controller, Licensing Authority-cum-Controlling Authority, Baddi, Distt. Solan (HP) has issued neutral Code No.HP/Drugs/12/666 dated 04.08.2012 to the petitioner's manufacturing unit for exports only. The wholesale drugs licence dated 19.02.2013 has also been granted by Drugs Licensing Authority, Baddi (HP). Furthermore, the Zonal Director, Narcotics Control Bureau vide certificate dated 02.09.2013 (P5) has authorized the purchase, store and consumption of controlled substances like Pseudoephedrine HCL and Ephedrine HCL. The Department of Excise and Taxation, Himachal Pradesh has also issued a certificate of registration dealer. Similarly, the requisite permission from other concerned authorities have also been obtained.

(9) Coming to the point of his involvement in the FIR in question, the petitioner has given a very detailed account of his alleged blatantly illegal arrest, as well as his false implication in the NDPS case in total disregard of the mandatory procedures and/or without any authority of law. To put it succinctly, the case of the petitioner is that the police officials from Amritsar, headed by Balkar Singh DSP, barged into his residence in village Ramana Chak during the intervening night of 13/14<sup>th</sup> November, 2013 and forced him to sit in a vehicle without proving any reason for doing so. The same has been duly recorded in the security CCTV camera installed at his residence (P45). He was then taken to police station Khilchian and from there towards Ludhiana where he was brought to the CIA staff. The police also sealed the petitioner's ancestral house in Ludhiana grabbed his 68 year old father and without any search warrant or authorization. The petitioner and his father were both taken to Police Station Sadar Rajpura and

from there to CIA Staff, Patiala in the morning. The petitioner was then taken to Police Station, Banur where the SHO carried out certain proceedings and apparently arrested him at about 3.45 in the afternoon. His father was let off in the late evening of 14.11.2013 after being kept in illegal detention for about 24 hours. The petitioner's police remand was from 14.11.2013 till 19.11.2013 and subsequently intended till 23.11.2013.

(10) The allegations leveled against the petitioner, as is evident from the application seeking his police remand (P47), are that FIR No.56 dated 15.05.2013 was registered at PS Banur, District Patiala when Satinder Dhama and Baljinder Singh @ Sonu were arrested on the basis of a secret tip-off and 1kg ICE and 20-kg Pseudoephedrine were recovered from their Verna car, which had a fake number plate. During interrogation, the accused named Jagdish Singh @ Bhola and Sarabjit Sabha who too were finally arrested on 11.11.2013. During the interrogation of Jagdish Singh @ Bhola, he disclosed that he got ICE, Pseudoephedrine and Ephedrine from Jagjit Singh and Paramjit Singh, both sons of Dr. Manmohan Singh, namely, the petitioner and his brother. According to the remand application (P47), the petitioner was arrested on 14.11.2013. The allegation is that the petitioner along with his brother Paramjit Singh and their colleagues at the two factories at Baddi (HP) and Pathankot was involved in the preparation of intoxicating drugs such as ICE and other contraband.

(11) The Judicial Magistrate, First Class, Mohali remanded the petitioner to police custody for five days on 14.11.2013. During this period, various searches and seizures were allegedly conducted at the factories, residence(s) and other premises of the petitioner. These searches or seizures are claimed to be totally illegal for (i) none of the licensing authorities at Himachal Pradesh were informed or associated; (ii) all of the premises were

vandalized – locks were broken, office premises ransacked and computers lifted, as can be seen in CCTV footage (P53); (iii) the raid was conducted in an unauthorized manner and without associating the drug licensing authority or the police of Himachal Pradesh given that the SHO of Police Station Banur left his own mobile phone with a co-official at the factory premises (HP) while taking the petitioner back to Police Station Banur. (iv) the licence, articles/substances available for manufacturing were later termed as ‘recovery’ under the NDPS Act; (v) the petitioner is a victim of dirty local politics aimed at getting the majority share of the petitioner’s company or taking over his business completely.

(12) The false implication of the petitioner was given undue publicity in the print and electronic media which sullied his name and has caused grave loss to his self-esteem.

(13) The petitioner’s private vehicles, including luxury cars as well as a Mahindra Bolero bearing registration No.PB-02-BL-1000, have been misused in effecting the alleged recovery in the same FIR on 14.12.2013. The vehicle was meanwhile being misused by the police as is evident from the videography and photographs (P55 colly).

(14) The petitioner in para 2.36 has also referred to the proceedings initiated by this Court *suo motu* in public interest to effectively address the menace of narco terrorism in Punjab.

(15) The petitioner thus contends that (i) his arrest, searches and seizures are in gross violation of the mandatory procedure given under the Code of Criminal Procedure (Ref. Section 41-B, 41-D, 50, 50-A, 55-A, 56, 57, 93, 100, 165 etc.) (ii) there is a total violation of provisions of the NDPS Act, especially the procedure contemplated under Section 41 on the issue of warrant and authorization, Section 42 *re.* power of entry, search, seizure and arrest without warrant or authorization, Section 43 *re.* power of seizure and arrest in public place, Section 44 power of

entry, search, seizure and arrest in offences relating to coco plant, opium poppy and cannabis plants and Sections 49, 50, 51, 52, 55, 57 & 58 etc.

(16) The petitioner further contends that the only competent authority to take action in respect of violation of conditions of licences is the Licensing Authority, namely, the Drug Authorities of Himachal Pradesh and the action taken by the Punjab Police was completely extra-constitutional.

(17) Hence, to provide credibility and instill confidence in the investigation it was a fit case to entrust to the CBI.

(18) The State of Punjab and its police authorities have opposed the petitioner's claim vide their reply/affidavit dated 24.03.2014 filed by Balkar Singh Sidhu, IPS, Deputy Inspector General of Police, Crime-2, Punjab. It is, *inter alia*, averred that this Court in *suo motu* proceedings initiated in public interest (CWP No.20359-2013) vide order dated 11.12.2013 had directed the State of Punjab to file a status report in respect of the averments made in a miscellaneous application filed by the "Lawyers For Human Right International". The status report was duly submitted in a sealed cover with affidavit dated 27.01.2014 and after perusing it, this Court directed that it be kept in custody after re-sealing. A further status report was directed to be filed in a sealed cover and in compliance thereto, the second status report dated 01.03.2014 had been filed. On perusal of the second status report, the Division Bench vide order dated 05.03.2014 observed that there was no reason to say that the investigation was not proceeding properly and that this Court is already monitoring the matter and would issue appropriate directions to entrust further investigation to any specific body, if need be.

(19) Meanwhile, CWP No.12 of 2014 (Jagmeet Singh Brar vs. State of Punjab & Ors.) and CRM No.M-17130 of 2013 filed by Sumeet Kaur w/o Avtar Singh @ Tari, both seeking transfer of the

investigation to an independent agency/CBI were disposed of by this Court without accepting this prayer. Thereafter, petitioner's wife Inderjit Kaur Chahal filed CWP No.28226 of 2013 (R-6) raising a similar issue but that writ petition was withdrawn. It is thus averred in the affidavit that the investigation in *re:* the menace of narco invasion in the State is being monitored by this Court under its PIL jurisdiction. The affidavit claims that the concerted efforts made by the Punjab Police in the year 2012-2013 had yielded recovery of a huge quantity of heroin, poppy-husk, synthetic drugs and other contrabands. In the year 2013 alone 3,23,056 injections and 30,652,590 pills and capsules targeting the street drug peddling were seized. The Punjab Police is said to have made major strides in the hitherto untouched and uncharted territory of manufacturing and supply to international markets of synthetic drugs primarily Methamphetamine which is known as ICE in the illicit-drug world. The State Police has seized the precursor chemicals like Ephedrine and Pseudoephedrine, used to manufacture methamphetamine. These precursor chemicals and synthetic drugs were never seized before 2012-13.

(20) From Para 10.1 onwards the affidavit unveils the busting of a large scale drug smuggling racket. It is claimed that on 03.03.2013 Anoop Singh Kahlon (NRI) and his associate Kulwinder Singh were arrested while travelling in an Innova car in which they were carrying 540 gms of heroin, ₹1 million in cash and 9054 US and Canadian dollars. FIR No.45 dated 03.03.2013 u/s 420, 467, 471, 201, 120-B IPC, 21/22/25/27-A/29/18/61/85 of NDPS Act, 25/54/59 Arms Act was registered at PS Fatehgarh Sahib. During the course of investigation Anoop Singh Kahlon made a disclosure statement on the basis of which 16 kg heroin was recovered from the false roof ceiling of one of the rooms of his house and 10 kg heroin was recovered from his associate Kulwinder Singh's @ Rocky Ascent Car. The "special packing

material to evade detection by sniffer dogs and x-rays during air cargo and shipment checking” for smuggling drugs in the international market, especially to Canada, was also recovered from his house. During further interrogation, these accused revealed names of various other persons who were actively involved in the drug racketing. It emerged that Jagdish Singh @ Bhola s/o Balchinder Singh is the kingpin of this drug racket.

(21) The police reached the house of Jagdish Singh @ Bhola on 08.03.2013 and 10 kg intoxicant powder along with packing and sealing material as well as ₹8.70 lacs were recovered. Jagdish Singh @ Bhola could not be arrested as he had gone underground. Proceedings u/s 82 and 83 CrPC were initiated and he was declared a proclaimed offender on 19.10.2013.

(22) Some more members of the gang, namely, Satinder @ Dhama and Baljinder Singh @ Sonu were arrested on 15.05.2013 when they were moving in a stolen car with a false registration No. During a search of the car, 500 gm MM (ICE) was recovered. On the basis of disclosure statement of one of them, 10kg Pseudoephedrine and one Fortuner car used in the drug racket was recovered. Based on information disclosed by the other gang member, 500gm ICE, 10 kg Pseudoephedrine and a Skoda car, were recovered.

(23) On 20.05.2013, Deep Singh @ Deepa, resident of Panchkula (Haryana) was arrested and one pistol of .30 bore, one pistol of .380 bore and 47 live cartridges were recovered from his possession. Finally, Jagdish Singh @ Bhola and Sarabjit Singh @ Sabha were arrested on 11.11.2013 near Ganaur, District Panipat, Haryana from Shan-e-Punjab dhaba and during the search 1kg of MM (ICE) was recovered from Jagdish Bhola and 500 gm was recovered from Sarabjit Singh @ Sabha. 10kg Pseudoephedrine and 600 gm Ephedrine was further got recovered in the presence of the then Superintendent of Police. One punching machine, two

rubber stamps in Punjabi font and two rubber stamps in English font, 1 iron stamp, 26 passports of various persons, and 10 strips of Visa stickers were also recovered from Jagdish Bhola.

(24) The petitioner's name had meanwhile surfaced in the statement of one Tejinder Kumar s/o Vijay Kumar recorded on 03.11.2013 u/s 161 CrPC who stated that the petitioner was also a member of the gang. When Jagdish Bhola and Sarabjit Singh @ Sabha were confronted with the statement of Tejinder Kumar dated 03.11.2013, they too disclosed that Pseudoephedrine and Ephedrine were being supplied to them by the petitioner.

(25) Based upon the above information, a raid was conducted and the petitioner was arrested on 13.11.2013 at about 10.00 pm from the Chahal Retreat Factory's residential area near Tara Wala Pul, Amritsar. The petitioner's brother (Paramjit Singh) was also wanted in connection with drug racket. The Amritsar Police Commissionerate was informed and the raid was conducted at the petitioner's residence along with officials from Amritsar Police. Paramjit Singh could not be arrested. When the petitioner was taken on remand upto 19.11.2013, he made a statement *re.* concealment of Pseudoephedrine and MM (ICE) in his Honda Accord car which was parked in the Chahal Retreat Factory. Search warrants were also obtained to effect search in both the industrial units. The police version further claims that the petitioner gave information that led to the recovery of 2kg of Pseudoephedrine and 250 gm of MM (ICE) on 14.11.2013 from the dicky of his Honda car which was also taken into possession. On 15.11.2013, the Punjab Police team reached Police Station Barotiwala, District Baddi (HP) and gave information to the local police and DDR No.21-A of 15.11.2013 was effected. A search was conducted on 16.11.2013 in MBP Pharma Pvt.Ltd. in the presence of Jaijaikar Singh, Drug Inspector as well as Wariyam Singh s/o Bachan Singh, an independent witness. During the search 25kg

intoxicant powder bearing no identification mark was recovered from the Hyundai car with registration No.PB-10-BW-0001 parked at the factory. Another 110 kg intoxicant powder mixture and 225kg Pseudoephedrine and 75 kg Ephedrine and 125 kg MM (ICE) was also effected from the factory premises. It is specifically averred that the local Drug Inspector of Himachal Pradesh Kamlesh Nayak was also part of the investigations; copies of seizure memos were supplied to him and the signatures on the seizure memo in token of receipts of the copies have been obtained by the investigating officer.

(26) Similarly, during the search of M/s Montek Bio Pharma, 165 kg intoxicant powder, 250 gm (MM), 175 kg Pseudoephedrine, 8.5 kg MM and 50 kg salt Sodium Chloride along with one Mahindra Maxi truck No.PB-02-BQ-9330 and four other vehicles belonging to the petitioner were recovered. As regards petitioner's role in the drug racket, it is claimed that he has been found to be the key supplier of the "*precursor chemicals Ephedrine and Pseudoephedrine to the members of the drug racket and these precursor chemicals were used in the illegal manufacture of methamphetamine (ICE) a synthetic drug which is listed as a psychotropic substance in the Schedule attached with the NDPS Act*". The affidavit candidly acknowledges that the petitioner possesses licence u/s 9A of the Act but he misused the precursor chemicals and supplied these for manufacture of MM (ICE). The illegal deviation of Ephedrine and Pseudoephedrine from the medicinal purpose for which licences were granted to the petitioner for "the manufacturing of methamphetamine (ICE) is an offence under the NDPS Act". It is further averred that a police report u/s 173 CrPC has already been filed against the petitioner in the Court of Special Judge, Mohali on 16.01.2014. It is also averred that a chemical report from the Forensic Science Laboratory indicates the presence of Ephedrine and

Pseudoephedrine in some of the parcels and that on comparison of the list of approved products to be manufactured by M/s Montek Bio-Pharma with the chemical report dated 19.03.2014 shows the presence of Metformine Hydrochloride and Pseudoephedrine Hydrochloride together in parcels No.3,4,5,6,7,8&9 even though this combination “*is not used in preparation of any medicine by the concerned pharmaceutical unit*”. It is also averred that “there are discrepancies between the labeling of the boxes kept in the pharmaceutical unit and the actual content of the boxes which have been proved by the chemical report. The presence of methamphetamine (ICE) in parcel no.35 ha been confirmed by the chemical report.”

(27) It is claimed in the affidavit that the investigation has been conducted in a professional manner without any fear or favour and a huge quantity of synthetic drugs including 23 kg ICE 75.600 kg Ephedrine have been recovered. As regards the petitioner’s allegations that the police has cooked up a story regarding the date of his arrest which they earlier admitted to be 14.11.2013, para 3 of the affidavit states as follows:-

*“As submitted in para 10 of the preliminary submission, the petitioner was arrested on 13.11.2013 at about 10.0 pm and produced before the Ld.Magistrate on 14.11.2013. Due to a clerical mistake, the date of arrest shown in the remand application was inadvertently mentioned as 14.11.2013. Even the Daily Diary Report (DDR) of PS Banur clearly shows the arrival of the investigating officer at the police station on 14.11.2013 after effecting the arrest of the petitioner from Amritsar.”*

(28) The other allegations leveled by the petitioner have also been controverted and it is claimed that the grounds of his

arrest was telephonically conveyed and he had been given complete access to his counsel and friends. Further, the petitioner was medically examined from time to time during his remand period, reports whereof were sent to the Judicial Magistrate.

(29) It may also be noticed that while the petitioner was in custody in FIR No.56 dated 15.05.2013 he was also arrested in FIR No.109 dated 24.12.2013 u/s 21/27/29/7/85 NDPS Act registered at Police Station Lambra, District Jalandhar. He was later on released on regular bail by a learned Single Judge vide order dated 22.03.2014. The order granting bail to the petitioner and his brother (Paramjit Singh Chahal) have been separately challenged by the State of Punjab.

(30) Meanwhile, charges have been framed in FIR No.56 dated 15.05.2013 on 06.08.2014 whereas challan FIR No.109 dated 24.12.2013 has also been presented on 26.08.2014.

**(2) CWP-17238-2014**

**(Manpreet Singh @ Mani Gill vs. State of Punjab)**

(31) The petitioner has made dual prayer in his petition U/S 439 read with Section 482 of Code of Criminal Procedure. He seeks his release on regular bail in FIR No.69 dated 08.03.2013 u/s 21/22/61/85 of NDPS Act, 1985 read with Section 13 FEMA of 1999 registered at Police Station Gobindgarh, District Fatehgarh Sahib, as well as a direction to hand over the investigation of this case to the Central Bureau of Investigation.

(32) The petitioner is a Non-Resident Indian and is statedly a citizen of Canada. As per the allegations contained in the FIR, Punjab police officials were present on 08.03.2013 at Bridge Canal Focal Point near Super Milk Factory, Ajnali in the area of police station Gobindgarh in connection with the apprehension of drug smugglers. At about 11.30 am, the petitioner along with his co-accused Gabbar Singh was seen coming in a white colour Ford Endeavor car bearing No.PB-10-CL-0014 which was stopped on

suspicion and on a search 2kg heroin, 20kg intoxicant powder and ₹1 crore cash were recovered from them.

(33) The petitioner alleges the above-stated story to be concocted and fabricated by “many Senior Punjab Police Officials and Politicians” so as to wreak vengeance and falsely embroil innocent persons like him.

(34) The correct facts according to the petitioner are that the police officials headed by Inspector Ramandeep Singh and 2 more Inspectors (Mobile Nos. of all of them are disclosed) illegally and forcibly entered his residential premises No.A-5/8, Crosswind Apartment, Shaheed Bhagat Singh Nagar, Ludhiana on the night of 02.03.2013 and threatened his family a false drug case against them if they did not pay up ₹50 lacs. The call records of mobile Nos. of Inspectors Ramandeep Singh, Avtar Singh and Sukhvir Singh (P3 to P5) are relied upon to prove that they were present in the area where the petitioner resides in Ludhiana as opposed to near Gobindgarh Town of District Ludhiana where petitioner is alleged to have been intercepted.

(34.1)The petitioner and his friend Ravinder Grewal @ Robin were allegedly abducted by the police and taken to CIA Sirhind where they were mercilessly tortured in the presence of other police officials including Inspector Devinder Attri.

(34.2)The petitioner’s friend Ravinder Grewal @ Robin, also a Canadian citizen, was released after 3 days as “*he had a confirmed return ticket to Canada for 06<sup>th</sup> March, 2013*”. It is averred that with a view to prevent disclosure of the true incident to anyone, Inspector Ramanpreet Singh and some other police officials themselves went to drop Ravinder Grewal @ Robin to Delhi Airport and threatened him to remain silent. The call details of mobile phones of Inspector Ramanpreet and Ravinder Grewal @ Robin (P6 to P9) are appended to substantiate the claim.

(34.3)The petitioner also claimed to have got ‘sting operation’ conducted and one police official Harjit Singh Belt No.363, is said to have admitted his presence at the residence of the petitioner as well as the motive behind the petitioner’s arrest. The entire conversation has been recorded in the audio/video CD (P12) which has been certified to be genuine by Truth Labs (a non-profit public society) (P13).

(34.4)The petitioner further asserts that on 07.03.2013 “the Punjab Police Officers including one Senior Superintendent of Police threatened him” and increased the demand from ₹50 lacs to ₹1 crore failing which his family and children were also to be implicated. By that time the petitioner was completely exhausted and being “a loving husband, father and son”, he accepted this demand and somehow tried to arrange the illegal gratification demanded by the Police Officers.

(34.5)The petitioner was provided his wife’s mobile phone to call his brother-in-law Bobby Basra settled in Vancouver (Canada) through whom the petitioner arranged for the enormous amount for their relatives in India.

(34.6)The police officers fixed two destinations for payment of the enormous sum ₹50 lacs were to be paid at Mukarba Chowk, New Delhi and the remaining ₹50 lacs at the Fawara Chowk, Ludhiana. It is claimed that a police team headed by Senior Superintendent of Police with two vehicles, including one white Ford Endeavor bearing registration No.DL-8C-CY-9000 and the second a Silver Innova bearing a Chandigarh No. started at 8.05 pm from Fatehgarh Sahib and reached Mukarba Chowk, Delhi and returned back to Fatehgarh Sahib at 6.00 am. Thereafter, they went to destination No.2 in the afternoon and this fact can be well established from the call details of their mobile nos. (P15 &

P16). It is claimed that instead of releasing the petitioner on receipt of ₹1 crore as per the agreed terms, the police officials again started demanding ₹50 lacs more and when the petitioner proclaimed his inability that the bribe money of ₹1 crore was shown to have been recovered from the petitioner and his co-accused.

(34.7) The petitioner was allegedly involved in two more false cases i.e. FIR No.45 dated 03.03.2013 u/s 21/22/25A/27A/29/18/61/85 of NDPS Act, 25/54/59A of Arms Act, 420/467/468/471/201/120-B IPC Police Station Fatehgarh Sahib and FIR No.42 dated 22.03.2013 u/s 22/61/85 NDPS Act, Police Station Sirhind, District Fatehgarh Sahib out of which in FIR No.45, he has already been discharged.

(35) The petitioner thus maintains that he has been falsely implicated through a well-knit conspiracy and the relevant call records of the raiding party coupled with the telephonic conversation held between the Investigating Officers (Dalbir Singh Grewal and brother in law (Bobby Basra from Canada) (P22 & P23) which has been certified to be genuine and authentic by Truth Labs (P24) leaves no doubt *re*: the false implication of the petitioner.

(36) The petitioner made a representation to various dignitaries and his ordeal was highlighted by the print media as well. The call records referred to above have since been ordered to be preserved on the petitioner's request by the Special Court, Fatehgarh Sahib vide order dated 22.02.2014 (P31).

(37) On these allegations, petitioner seeks his release on regular bail as well as entrustment of the investigation to the CBI.

(38) The State of Punjab has filed its reply dated 22.10.2014 by way of affidavit of Deputy Superintendent of Police, Patiala. It is maintained that on 03.03.2013, the police of Fatehgarh police

busted a big international drug smuggling racket and a huge quantity of drugs and drug money was recovered.

(39) Anoop Singh Kahlon (NRI) and his associate Kulwinder Singh (Indian) were intercepted in an Innova Car and 540 gm heroin and Indian currency worth one million Rupees were recovered. FIR No.45 dated 03.03.2014 under various provisions of NDPS Act, Arms Act and IPC was registered. On 08.03.2013, the petitioner (NRI) along with one Gabbar Singh (Indian citizen) was intercepted in the area of Focal Point, Police Station Mandi Gobindgarh and 2kg heroin and 20kg narcotic drug powder and ₹1 crore were recovered. The officials of the Canadian Embassy were immediately informed about the arrest of Anoop Singh Kahlon as well as the petitioner through short messaging service. Subsequently, the information of their arrest was also sent in writing to the Canadian High Commission. The particulars of several FIRs registered on different dates between March to May, 2013 in which a huge haul of illicit drugs, Indian and foreign currencies, weapons and vehicles were recovered, was also sent. It is claimed that during the course of the investigation the names of many Canadian citizens who were associating with other Indian smugglers also surfaced.

(40) The reply/affidavit refutes the petitioner's allegation that he was illegally arrested on the night of 2<sup>nd</sup> March, 2013. It is claimed that the petitioner was arrested on 08.03.2013 and was produced before the Court on a number of occasions and on each occasion he was medically examined in the Civil Hospital, Fatehgarh Sahib and no contra-complaint was ever made by him or his counsel when he was produced before the Judicial Magistrate. The allegations of 3<sup>rd</sup> degree treatment are stated to be an afterthought as his wife Smt. Amarjit Kaur Basra in her Crl.Misc.No.17799 of 2013 filed on 23.05.2013 did not make such allegations. The instant petition has been filed after 11 months of

the recovery. It is further averred that the challan had already been presented in the Court on 31.05.2013 and after the framing of charges and the case had been fixed for prosecution evidence since 31.05.2014.

(41) The story regarding taking of ₹1 crore from the petitioner and still planting a criminal case against him has been refuted, it being baseless.

(42) As regards the petitioner's prayer for transferring the investigation to CBI, it is pointed out that earlier CWP No.9336 of 2014 was filed for quashing of the subject FIR. The said writ petition was disposed of by this Court on 02.07.2014 with a direction to the Narcotic Wing (Committee), Punjab Police headed by Mr. Ishwar Singh, IPS, Inspector General of Police to consider/determine all the points contained therein and then pass a reasoned order after hearing petitioner No.2. The State Narcotic Control Bureau thus carried out its investigation and finally submitted a report to this Court in a sealed cover. It is maintained that the petitioner cannot seek transfer of investigation time and again from one agency to another.

(43) After the afore-stated reply/affidavit by the State, the petitioner moved Criminal Misc. No.12943 of 2015 to place on record certain documents. The said application not only seeks to produce additional documents, it also gives a more elaborate version of the facts already pleaded by the petitioner. In addition, it is stated that Ravinder Grewal @ Robin sent representations (P43 colly) to various authorities after he reached Canada including Canadian Embassy as to how he and his friend (petitioner) were threatened by the SSP to make confession(s) otherwise their families would suffer. Statements of Ranjit Kaur – sister of Gabbar Singh as well as Gabbar Singh himself (P44 colly) are relied upon to boost the allegations against the Punjab Police. The signed statements of security guards of the Apartment

Building where the petitioner resides (P46 colly) are also relied upon.

(44) The petitioner claims that on 04.03.2013 photographs were taken on his Apple i-Pad on the occasion of his son's birthday and these photographs reveal the presence of Punjab Police officers at his residence. Due to such confinement, his son could not appear in the examination of Don Bosco Global School which has been certified by that school (P49 colly). The confirmed return ticket of Ravinder Grewal @ Robin which allegedly rescued him and the call details of the police officers who allegedly accompanied him to the Delhi Airport are now appended (P50). The call records of petitioner's brother-in-law in Canada (Bobby Basra) and the petitioner's wife have also been referred to (P51).

(45) The petitioner's family is said to have made certain audio/video recordings/sting operations to establish the illegal arrest and torture suffered by him and his family (P54 colly).

(46) The other CDs containing audio/video recording between the petitioner's wife, one Billa, an Advocate, Devinder Singh SHO Women Cell, etc. are also relied upon (P55 colly, P56, P57, P58, P59, P60 colly). These audio/video recordings are certified to be true by Truth Labs (P61).

(47) Anoop Singh Kahlon is also said to have sent a signed statement from Nabha jail (P62) suggesting the petitioner's false implication. The representations made by the petitioner's wife to various authorities have also been appended.

(48) Ms. Harleen, a Consular in Canadian Embassy at Chandigarh was allegedly not allowed to meet the petitioner in jail on 18.04.2013 but the petitioner's wife met him and found several injury marks and abrasions on his body. This issue and the third degree torture given to the petitioner was raised by the Canadian Embassy as well (P64).

(49) The petitioner claims that his father had withdrawn some amount from his account in February to buy a flat for his son in Ludhiana for which an agreement dated 28.02.2013 was executed but that amount had to be utilized towards the bribe money amounting to ₹1 crore.

(50) The police version regarding the recovery effected from the petitioner is sought to be falsified on the plea that while in the FIR the vehicle shown is an Endeavor but in the application seeking petitioner's bail remand, 'Innova car' has been shown. The doctor who examined the petitioner periodically was allegedly in cahoots with the police officers and thus submitted false medical reports. The Punjab Human Rights Commission also took cognizance of the torture inflicted on the petitioner vide its order dated 27.11.2013 (P69).

(51) Lastly, the petitioner has relied upon a certificate dated 11.09.2014 of the Consulate General of Canada to the effect that the Government of Canada supports the petitioner's request for an enquiry by the CBI.

**(3) CRM-M-12029-2013**  
**(Inderjit Singh vs. State of Punjab)**

(52) In this petition u/s 482 CrPC, the petitioner seeks a direction to the State of Punjab and its Police authorities not to harass or obstruct him from harvesting the crops standing on his land in village Mehta, Tehsil Tapa Mandi, District Barnala. He also seeks a direction for the 'return' of his Qualis car bearing PB-05K-7070 as well as an enquiry by this Court in the entire incident so that the persons found involved are punished in accordance with law.

(53) The petitioner has alleged that on 06.04.2013 at about 8.30 am, a police force of about 135 police personnel traveling in two buses, two Innova cars and one Gypsy car arrived at his residence and without showing any Search Warrant to the

petitioner's mother, ransacked his entire house after breaking doors, windows etc. They untied the domestic cattle and "confiscated Toyota Qualis car PB-05K-7070 which belongs to Mr. Tarlochan Singh who is friend of the petitioner". The car was allegedly borrowed from his friend. The police forced the mother of the petitioner to sign some blank papers. Thereafter, the police personnel left at around 1.30 pm but raided the petitioner's house again on 08.04.2013 and stopped him from harvesting the wheat crop.

(54) The above-stated action of the police authorities is in utter disregard to the law of the land and the mandatory provisions contained in Punjab Police Rules 1934. No notice under Section 105-F of CrPC was served after the confiscation of Toyota Qualis car.

(55) The petitioner has alleged that the ruthless and violent display of power carried out is actually in furtherance of the FIR registered against Sarabjit Singh, the petitioner's brother who lives in Naya Gaon (near Chandigarh) and has no share in the petitioner's property. The petitioner resides with his wife, parents and his son. With these allegations, the petitioner has sought the relief as disclosed in the opening paragraph.

(56) The State of Punjab has filed its reply by way of affidavit dated 22.05.2013 of DSP (HQ) Patiala-cum-Supervisory Officer of Special Investigation Team constituted for the investigation of FIR No.45 dated 03.03.2013. It is stated in the affidavit that the said FIR was registered and a huge quantity of heroin, two fake driving licences, 4 live cartridges of .32 bore, ₹894800/- as well as foreign currency were recovered from Anoop Singh Kahlon and his associate followed by further recoveries of heroin etc. as per their disclosure statements. During their interrogation, the two accused revealed the name of Jagdish Singh @ Bhola as the real kingpin. Thereafter, a raid was conducted at

Jagdish's residence on 08.03.2013 and 10kg heroin besides some cash etc. were recovered. However, Jagdish Singh @ Bhola could not be arrested. The police received certain secret information that Jagdish Singh @ Bhola was in all likelihood staying at the residence of Sub Inspector (of Punjab Police) Sarbjit Singh at Kothi No.6, Shivalik Vihar Colony, Nayagaon, Chandigarh. Hence a raid was conducted on 26.03.2013 at the residence of SI Sarabjit Singh but neither Jagdish Singh @ Bhola nor SI Sarabjit Singh were found though recovery of 2.600kg opium, 1kg white powder and .12 bore DBBL gun was made in the presence of official gunman of SI Sarabjit Singh. SI Sarabjit Singh was thus made co-accused in FIR No.45 dated 03.03.2013.

(57) The petitioner herein is the real brother of SI Sarabjit Singh.

(58) It has been denied that the police authorities confiscated Toyota Qualis car bearing registration PB-05K-7070 or that any vehicle was taken into possession. It has also been denied that the signatures of mother of the petitioner were obtained on blank papers.

(59) The police version is that on 16.04.2013, Inspector Davinder Kumar Attri and his team intercepted Toyota Qualis PB-05K-7070 and recovered 8.50 kg intoxicant powder from Davinder Singh @ Happy who is a close associate (driver) of Jagdish @ Bhola. FIR No.69 dated 16.04.2013 was thus registered at Police Station Fatehgarh Sahib under various provisions of NDPS Act and IPC. During the investigation of this case, it was found that the above named vehicle was registered in the name of Tarsem Singh s/o Sohan Singh. The other allegations regarding preventing the petitioner from harvesting his crop etc. have also been refuted. The affidavit of Tarsem s/o Sohan Singh, owner of Toyota Qualis car No.PB 05K-7070, has been appended (R5) and as per its contents, the said vehicle was in fact purchased by SI

Sarabjit Singh in the name of the deponent as SI Sarabjit Singh was unable to purchase the same in his own name given that he was a government employee.

**(4) CRM-M-43597-2013 (Sarabjit Singh vs. State of Punjab)**

**(5) CRM-M-2915-2014 (Sarabjit Singh vs. State of Punjab)**

(60) SI Sarabjit Singh of Punjab Police (since dismissed) has filed these two petitions u/s 482 CrPC for quashing of FIR No.69 dated 16.04.2013 u/s 420/467/468/471 IPC and 21/61/85 of NDPS Act registered at PS Fatehgarh Sahib and to order independent probe into FIR No.45 dated 03.03.2013, registered u/s 420/467/468/471 IPC, 21/61/85 of NDPS Act and 25/54/59 of Arms Act at Police Station Fatehgarh Sahib. In the first petition, he has leveled allegation against Sikander Singh Malooka, presently Education Minister in the State of Punjab and has impleaded him as respondent No.2. In the second petition (CRM-M-43597-2013) though the allegations are reiterated but Sh. Malooka is not a party respondent. Since the facts of both the FIRs are overlapping, a brief reference is being made from the first petition (CRM-M-43597-2013).

(61) The petitioner has alleged that while he was posted as SHO, Police Station Dialpur, District Bathinda in the year 2006, he had displeased Sh. Sikander Singh Malooka who was then the District Jathedar of Akali Dal (Badal) and was found misusing the red-light atop his vehicle. Sh. Malooka is now Education Minister of Punjab Government and he being 'inimical' started harassing the petitioner. It is alleged that under the influence of Sh. Malooka, the petitioner and his family members have been falsely implicated in FIR No.45 dated 03.03.2013 according to which, a raid was conducted at the petitioner's residence and 2.6 kg opium along with intoxicant powder is claimed to have been recovered when he had gone along with his family members to watch a movie. The police party also raided the house of petitioner's

brother Inderjit Singh on 06.04.2013 and stopped him from harvesting the land measuring 100 acre in village Mehta, District Barnala. His brother's 35 cattle were let off and the Toyota Qualis vehicle No.PB-05K-7070 was also taken away.

(62) The petitioner's brother Inderjit Singh approached this Court (in CRM-M-12029-2013) on 09.04.2013 alleging that his vehicle was illegally taken away by the police and this Court issued notice on 11.04.2013.

(63) Thereafter the instant case was planted against Davinder Singh on 16.04.2013 alleging that a huge contraband was recovered from him while traveling in Toyota Qualis vehicle No.PB-05K-7070. The motive behind registration of this case is to falsely implicate the petitioner on the ground that the Toyota Qualis vehicle No. PB-05K-7070 actually belongs to him though as per the police the vehicle is owned by Tarsem Singh. There is thus a clear attempt to entangle the petitioner in false and frivolous cases. In sum and substance, the petitioner claims that his brother had already disclosed in this Court on 09.04.2013 that the above named Qualis vehicle had been forcibly taken away by the police hence the story cooked up regarding the recovery of an alleged contraband from that vehicle on 16.04.2013 from Davinder @ Happy is totally false, baseless and concocted.

(64) The State of Punjab has controverted the petitioner's claim by way of reply/affidavit of Deputy Superintendent of Police, Nabha. It is averred that the petitioner who is now a dismissed Sub Inspector of Police was earlier also involved in the following criminal cases:-

- (i) FIR No.20 dated 17.03.2007 u/S 365, 466, 342, 323, 120-B 34 IPC PS Dayalpura, District Bathinda;
- (ii) FIR No.123 dated 13.07.2001 u/S 218, 342, 34 IPC PS Kharar, Mohali;

(iii) FIR No.54 dated 04.09.1997 u/S 15/61/85 of NDPS Act, PS Dehlo, District Ludhiana;

(iv) FIR No.160 dated 28.06.1999 u/S 420, 467, 468, 471, 120-B IPC, PS Sector 39, Chandigarh.

(65) It is further averred that the petitioner has been declared a proclaimed offender in FIR No.45 dated 03.03.2013. He had earlier filed a bail application before this Court in FIR No.69 dated 16.04.2013 which he withdrew stating that he will avail the remedy by surrendering before the trial Court. This Court directed the trial Court to decide the bail application within two days of its filing but the petitioner has not surrendered till date. The allegation of taking the Toyota Qualis vehicle from the residence of petitioner's brother on 06.04.2013 has been strongly denied. According to the police, the petitioner is involved in yet another criminal case in the State of Madhya Pradesh.

(66) Respondent No.2 – Sikander Singh Malooka has filed his affidavit dated 09.05.2014 refuting the petitioner's allegations. It is averred that "the deponent has no connection or knowledge at all with any kind of action taken against the petitioner nor the deponent has interfered in the same". As regards the alleged incident of use of red-light, it is explained that the Driver of the deponent was challaned by one ASI Mukhtiar Singh for using red-light but that allegation was totally false and the driver was acquitted by the Judicial Magistrate First Class, Phul.

**(6) CRM-M-29757-2013**

**(Baljit Singh vs. State of Punjab)**

(67) This petition u/s 482 CrPC also seeks entrustment of the case FIR No.69 dated 16.04.2013 registered at Police Station Fatehgarh Sahib u/s 21/61/85 of NDPS Act, 420/465/467/468/471 IPC to the Central Bureau of Investigation.

(68) The petitioner is the father of Davinder Singh @ Happy. As per the allegations contained in the FIR, the

petitioner's son was found in possession of 8.50 kg of contraband while traveling in Toyota Qualis car bearing registration No.PB-05K-7070. The police team was allegedly present at the T-point at village Dhapsari, Sadhomajra and was checking vehicles when at about 10.15 am, the above-stated vehicle being driven by Davinder Singh @ Happy was stopped and 8.50 kg of intoxicant powder was recovered from him besides a fake driving licence. The instant petition is in fact an offshoot of CRM-M-12029-2011 (Inderjit Singh vs. State of Punjab) in which it is alleged that the Qualis vehicle No. PB-05K-7070 was forcibly taken away by the police from his residence in village Mehta, District Barnala on 06.04.2013. The petitioner's case is that he is a driver in the Electricity Board and on 06.04.2013 he was on duty with the Chief Engineer, Thermal Plant, Lehra Mohabat. The petitioner's wife and his daughter were at home. His daughter called the petitioner on his mobile No. between 10.15/10.30 am to tell him that the Fatehgarh Sahib police had raided their house. On hearing so, he went home and found that there were 3 Innova vehicles in which 10-12 police personnel including DSP Arashdeep Singh and Inspector Davinder Attri were present. They told the petitioner that they wanted to enquire about the whereabouts of his son as he was involved in a drug case in Fatehgarh Sahib. The police team took the petitioner along with them with the permission of the Chief Engineer.

(69) According to the petitioner, efforts were made to trace his son Davinder Singh @ Happy in Chandigarh, who gave a call to his mother through mobile No.9180813605. She then gave this number to the petitioner who called Davinder Singh @ Happy and told him that they were looking for him. Davinder Singh @ Happy told the petitioner that he was out of station and would soon return to Sector 10, Mohali. Inspector Davinder Attri got the location of his mobile phone tracked and all of them then reached

Sector 10, Mohali where Davinder Singh @ Happy was handed over to Inspector Attri. On the basis of the afore-stated averments, it is claimed that the petitioner's son Davinder Singh @ Happy had in fact been in police custody since 06.04.2013 and it was a totally false story that he was arrested along with Toyota Qualis vehicle No.PB-05K-7070 on 16.04.2013. The petitioner alleges that it is a clear case of false implication and misuse of power of police hence the matter requires independent investigation.

**(7) CRM-M-17971-2014**

**(Satinder Dhama v. State of Punjab)**

**AND**

**(8) CRM-M-26436-2014**

**(Satinder Dhama @ Satender vs. State of Punjab)**

(70) These two petitions are by Satinder Dhama r/o 1669, Sector 15 Panchkula who is presently lodged in Central Jail, Patiala. Vide the first petition, he seeks an independent probe, preferably by CBI, in the case FIR No.45 dated 03.03.2013, u/s 420/467/468/471 IPC, 21/61/85 of NDPS Act and 25/54/59 of Arms Act, Police Station Fatehgarh Sahib; (ii) FIR No.56 dated 15.05.2013 u/s 379/411/473/120-B and 21/22/61/85 of NDPS Act, 1985, Police Station Banur; (iii) FIR No.50 dated 03.04.2013 u/s 18/21/22/61/85 of NDPS Act, 25/54/59 of Arms Act, Police Station Urban Estate Patiala; (iv) FIR No.292 dated 26.10.2013 u/s 307/34 IPC, 25/54/59 of Arms Act and 21/22/61/85 of NDPS Act, Police Station Civil Lines, Patiala. In the second petition (CRM-M-26436-2014), a similar prayer in respect of FIR No.56 dated 15.05.2013 only has been made. Since the first petition (CRM-M-17971-2014) contains comprehensive pleadings, the facts are being extracted therefrom.

(71) In para 3 to 6 of the petition, the petitioner has referred to registration of cases against SI Sarabjit Singh, his

brother Inderjit Singh and the petitions filed by them in this Court, especially by Inderjit Singh regarding the recovery of vehicle No.PB-05K-7070 Toyota Qualis in which notice of motion was issued by this Court on 11.04.2013. According to the petitioner, SI Sarabjit Singh and his brother have been falsely implicated for *mala fide* reasons.

(72) Thereafter in para 7, the petitioner has alleged that the Punjab Police team visited his house in Panchkula (Haryana). Davinder Kumar Attri was heading the police team and is said to have threatened his family with a false implication in a criminal case if the petitioner was not handed over. The brother of the petitioner, Sanjeev Dhama, and his father, R.R. Dhama, were present in the house.

(73) Sanjeev Dhama – the brother of the petitioner is a CBI official and his senior(s) in the CBI talked to the Punjab Police team due to which the family was saved.

(74) Inspector Ramandeep Singh of Punjab Police called Sanjeev Dhama – brother of the petitioner on his mobile on 30.03.2013 and asked him to produce the petitioner. Thereafter a police party led by Inspector Ramandeep Singh came to the petitioner's house on 31.03.2013 and wanted to conduct a search but the petitioner's elder brother Vijay Dhama called the PCR of Panchkula due to which the Punjab police left the scene. After some time, the Punjab Police party returned and claimed that there was some drug lying in a sealed cover in the Optra car parked outside the house which is why they wanted to take away the vehicle to Fatehgarh Sahib, Police Station. The family of the petitioner did not permit it and they insisted that the vehicle be checked at the site. The local residents are said to have checked the vehicle at the site and nothing was found in it. The Haryana Police also took the car to Police Station Sector 14, Panchkula where nothing was found in the car.

(75) The petitioner has alleged that on the very next day i.e. on 01.04.2013 it was reported in the media that a huge haul of contraband drugs was effected from Innova car parked in the house of the petitioner. Based upon that alleged recovery, the petitioner was implicated in the FIR No.45 dated 03.03.2013. The petitioner claims that the Innova car could not be parked inside the house as some construction work was going on.

(76) The petitioner has further alleged that while traveling from Delhi to Chandigarh on 15.05.2013 in Hyundai Verna car HR-26AJ-1019 he had gone to a hotel in Sector 35 Chandigarh to meet one of his friends. He and his friend were picked up from there by the Punjab Police headed by Inspector Ramandeep Singh and taken to Police Station Banur in Ramandeep Singh's Scorpio. Petitioner's Verna car was also taken to Police Station Banur. The petitioner was then shown to be arrested in FIR No.56 dated 15.05.2013 and some recoveries have been 'effected' from his car when it was stopped at a Naka in Banur.

(77) The petitioner's father made efforts (including by way of a petition in this Court) to secure CCTV footage of the area of the Hotel in Sector 35, Chandigarh from where the petitioner was arrested. Similarly, permission to receive CCTV footage of National Highway No.1 at Toll Plaza to see whether Verna Car HR 26AJ-1019 passed through it was also applied for, besides other information under the RTI. The petitioner's brother Vijay Dhama received a call on 17.05.2013 from Desh Raj with whom the petitioner had parked Skoda Laura car bearing registration No.CH-04J-6006. Des Raj told petitioner's brother that the Punjab Police was asking him to hand over the petitioner's above named car. It was the petitioner's brother Vijay Dhama who then handed over the vehicle to the Punjab Police officials, namely, Inspector Mohinder Singh as Des Raj, sensing some *mala fide* intention did not accompany his brother. The Punjab Police team

allegedly rebuked the petitioner's brother for not bringing Des Raj as they wanted to arrest him as well. The vehicle was retained by the Punjab Police but finally the petitioner's brother was allowed to go after the intervention of the Police Station Raipur Rani (Haryana).

(78) The petitioner alleges that when the above-stated vehicle was taken on superdari as it was case property in FIR No.45 dated 03.03.2013, it was found that the Chassis No. and Engine No. etc. had been defaced and tampered with by the police for reasons they did not disclose.

(79) On 17.05.2013 itself, petitioner's friend Deep Singh @ Deepu is also said to have been arrested by the Punjab Police along with Scorpio vehicle in FIR No.56 dated 15.05.2013. It is also alleged that the Punjab Police team visited the petitioner's residence at Panchkula on 17.05.2013 and took his mobile phone from his father but the same has not been shown as the case property.

(80) The petitioner was taken on police remand on 15.11.2013 in FIR No.50 dated 03.04.2013 as some contraband was said to have been recovered from his house besides one weapon. The petitioner was again taken on police remand on 21.11.2013 by Patiala police in FIR No.292 dated 26.10.2013 registered at Police Station Civil Lines Patiala. No recovery has been shown to have been effected from the petitioner in that case.

(81) According to the petitioner the only reason for his implication in this case is "to extort money" and to make the tall claim of having solved the drug menace in the State of Punjab.

(82) The petitioner relies upon the allegations made by Manpreet Singh Gill in CRM-M-17238-2014 regarding the alleged demand of bribe of ₹50 lacs and then ₹1 crore by the Punjab Police. The petitioner has further pointed out the alleged third degree

torture given to Gill and some of his associates to justify independent investigation into the above-cited FIRs.

(83) The State of Punjab has filed its reply by way of affidavit of Superintendent of Police (D), Patiala in which firstly the account of purportedly busting the international drug smuggling racket on 03.03.2013 with the arrest of Anoop Singh Kahlon (Canadian citizen) and his associate Kulwinder Singh is stated. As regards the petitioner, it is averred that during the intensive interrogation of Anoop Singh Kahlon, Kulwinder Singh @ Rocky, Kulwant Singh @ Kanti, particulars of some active gang members surfaced. A raid was conducted on the house of petitioner on 31.03.2013 and from the Innova car bearing registration No.PB-11-AY-7743 parked in his house, 75kg Pseudoephedrine and 3 kg methamphetamine were recovered. It is stated that the matter was thoroughly investigated and a report u/s 173 CrPC has already been presented in the Court of Special Judge, Fatehgarh Sahib.

(84) The reply/affidavit further discloses that on 15.05.2013 some secret information was received against the petitioner, Baljinder @ Sonu and their gang members as they were moving in a stolen car with a fake registration number. The informer divulged that they habitually carried Pseudoephedrine and other intoxicating materials. The petitioner along with Baljinder @ Sonu was apprehended when they were coming from the Amritsar side and going towards Delhi via Kharar in a car bearing forged and fabricated registration No.HR-26-AJ-1019. On the basis of the petitioner's disclosure statement, 10kg Pseudoephedrine and one Fortuner vehicle was recovered whereas Baljinder Singh @ Sonu's disclosure statement led to the recovery of 500gm ICE (methamphetamine), 10kg Pseudoephedrine and a Skoda car.

(85) It is further alleged that FIR No.50 of 2013 was registered on receipt of secret information regarding 6 separate

gangs in which the petitioner is actively involved. He supplies heroin, smack, opium and other kinds of intoxicating substances to the students of Universities in Patiala and Chandigarh as well as other places. As regards FIR No.292 dated 26.10.2013, it is averred that Inspector Jatinder Pal Singh, SHO PS Civil Lines Patiala apprehended Palwinder Singh @ Pinda and Satnam Kaur who were traveling in car No.PB-65-T-9132. The above named accused fired on the police party but fortunately missed. The accused's statements led to the recovery of 1kg intoxicating powder, 56 gm heroin along with a digital weighing machine, one 9mm pistol, 5 cartridges, fake number plates and forged driving licences. During interrogation they revealed that the petitioner used to supply drugs to them. Hence the production warrants were obtained and the petitioner was arrested in this case as well. It is thus claimed that the petitioner is an active member of the gang and the allegations of false implication are totally baseless.

**(9) CRM-M-32827-2014**

**(Maninder Singh @ Bittu vs. State of Punjab & Ors.);**

(86) In this petition u/s 482 CrPC, the petitioner seeks entrustment of the investigation of case FIR No.56 dated 15.05.2013 u/s 379,411,473,120-B,468,471 IPC, 21/22/25/25-A/29 of NDPS Act and 25 of Arms Act registered at PS Banur, District Patiala to Central Bureau of Investigation, as according to him, the investigation conducted by the Punjab Police is blatantly in violation of the provisions of the Code of Criminal Procedure and he has been falsely implicated for extraneous considerations.

(87) The petitioner statedly belongs to an affluent family who own several commercial, residential and agricultural properties as well as businesses like hotels, petrol pumps and real estate etc. A brief description of about 16 immovable properties and other assets owned by the family are summarized in P-7. The petitioner's family is an ardent supporter of Dr. Rattan Singh

Ajnala who held various significant political assignments in Shiromani Akali Dal Party and was also elected as Member of Parliament in the year 2002. His son Boney Ajnala was elected as MLA and became Chief Parliamentary Secretary in the year 2012. The supporters of Shiromani Akali Dal (Badal) allegedly got divided in two groups in the matter of election of Ajnala Cooperative Sugar Mill held in November, 2013 as the young brigade wanted and succeeded in ousting Ajnala supporters. It is claimed that due to political friction between the two groups, Dr. Rattan Singh Ajnala had to pay a price as he was not given a party ticket from Khadoor Sahib Parliamentary constituency though he was a sitting Member of Parliament.

(88) The petitioner has averred that the subject-FIR was registered on 15.05.2013 and challan was presented on 24.08.2013 against three accused only. There was no name mentioned in Column No.2 also. The petitioner's name did not figure anywhere till the supplementary challan dated 11.01.2014 was filed stating that one of the co-accused had revealed on 13.11.2013 the involvement of several persons including petitioner. In his statement the co-accused is said to have disclosed that the petitioner used to provide assistance to Jagjit Singh @ Sonu Chahal and Paramjit Singh Chahal in perpetuating their illegal business. The police gave clean chit to 7 persons who were also named by that co-accused but with *mala fide* intention implicated the petitioner as he is perceived to be the most trusted aide of Dr. Ajnala. As per the supplementary challan, certain secret information was received that the petitioner was in possession of contraband and could be arrested from Gagan Chowk, Rajpura. The petitioner is shown to have been arrested from Gagan Chowk, Rajpura on 14.11.2013 by the Police of Kotwali, Nabha, who had no jurisdiction to effect such arrest in the territorial area of Police Station, Rajpura. According to the petitioner, if there was any

recovery effected on 14.11.2013 then it constituted a separate and distinct offence for which a separate FIR ought to have been registered.

(89) The petitioner relies upon the call details of mobile phones of ASI Inderjit Singh and Head Constable Amarjit Singh, who are the recovery witnesses, to urge that they were not present at the time of the purported recovery. The petitioner was allegedly picked up by Sukhwinder Singh Randhawa, SHO Civil Lines Amritsar and DSP Balkar Singh Civil Lines, Amritsar at about 8.30 am on 14.11.2013 from Amritsar and not from Rajpura as claimed in the supplementary challan. The mobile phone location of the petitioner i.e. 98148-20004 and that of the above-named police officers would reveal the authenticity of this claim. Further, if CCTV camera recording of 14.11.2013 at the Toll Plaza *en route* from Amritsar to Patiala are seen, it would stand established that the petitioner was in the illegal custody of Amritsar police. The petitioner also relies upon the fact that on one hand, he was produced before the CJM, Mohali on 15.11.2013 at about 3.30 pm and on that very day recoveries are shown to have been effected from his house which is at a distance of 5 hours drive from Mohali. The alleged recoveries are fake and none of the witnesses were present at the spot.

(90) The petitioner raised these contentions before the Special Judge and sought a direction for further investigation u/s 173(8) CrPC. The trial court without even considering such legal issues, framed the charges vide order dated 05.08.2014 and rejected his request.

(91) Alleging it to be a case of gross violation of the fundamental rights guaranteed under Article 21 of the Constitution, the petitioner has also averred that mere presentation of challan or framing of charges *per se* does not cause any impediment against entrustment of the investigation to CBI.

(92) The respondents' stance against the petitioner finds mention in their reply/affidavit dated 20.11.2014 filed by the Deputy Superintendent of Police, Rajpura the bail application of petitioner bearing CRM-M-10857-2014. The reply/affidavit firstly gives brief details as to how the racket was busted on 03.03.2013 and the accused found to be actively involved in one or the other form were nabbed. As regards the petitioner, it is claimed that Inspector Davinder Kumar along with the police party was present on 14.11.2013 in connection with the investigation of case FIR No.45 dated 03.03.2013 when he received a call from SSP, Patiala that the petitioner was present near Gagan Chowk, Rajpura. His description was also disclosed. On the basis of this information, the petitioner was arrested and during the search 2kg Pseudoephedrine was recovered from his bag. His statements were recorded in which he disclosed that he was one of the group members of drug racketeers and he used to deal with their kingpin, namely, Jagdish Singh @ Bhola. The petitioner allegedly confessed that his vehicle Mitsubishi Pajero (blue) bearing registration No.PB-02-BK-0002 and Hyundai Verna (white) registered No.PB-02-BN-0002 were also being used for the transportation and supply of drugs. These vehicles were taken into possession by the police and during the course of investigation, it has been found that these vehicles were purchased from the drug money.

(93) Further, the petitioner made a disclosure statement on 22.11.2013 during police custody on the basis of which 1kg Pseudoephedrine was recovered in the area near SYL canal on Sirhind-Landran road, District Fatehgarh and 500gm intoxicant powder from near the bus stand at Chhatbir. The report of Chemical Examiner, Patiala shows that the intoxicant powder contained Dextropropoxyphene. The affidavit further alleges that the petitioner used to take advantage of the VIP numbers of his

vehicles which were often not being checked and he freely transported Pseudoephedrine and other drug material to various persons including foreigners like Palwinder Singh @ Pindi Uncle – a resident of Canada.

**(10) CWP-341-2014**

**(Balchhinder Singh vs. State of Punjab & Ors.).**

(94) The petitioner is the father of the alleged kingpin of drug-mafia, namely, Jagdish Singh @ Bhola. Through this petition under Article 226/227 of the Constitution, he seeks a direction to the State of Punjab and its Police authorities to hand over further investigation of the entire drug scam accusing his son Jagdish Singh @ Bhola who has been involved in the (i) FIR No.45 dated 03.03.2013 u/s 21/61/85 of NDPS Act, 420/467/468/471 IPC, 25/54/59 of Arms Act registered at PS Fatehgarh Sahib (P9); (ii) FIR No.42 dated 22.03.2013 u/s 22/61/85 of NDPS Act registered at PS Sirhind (P10); (iii) FIR No.69 dated 08.03.2013 u/s 21/22 of NDPS Act and Sec. 13 of FEMA Act, 1999 (P13); (iv) FIR No.50 dated 03.04.2013 u/s 18,21,22,61,85 of NDPS Act; 25/54/59 of Arms Act registered at PS Urban Estate, Patiala (P17); (v) FIR No.56 dated 15.05.2013 u/s 379,44,473,120-B IPC, 21/22/61/85 of NDPS Act registered at PS Banur (P18), to the Central Bureau of Investigation, as three Cabinet Ministers in the Punjab Government are alleged to be directly involved in the drug scam and the Deputy Chief Minister Punjab is keen on saving them. A further direction to restrain respondent No.5 – Senior Superintendent of Police, Patiala from carrying out further investigation in the above-mentioned cases, is also sought. It is also claimed that the petitioner's son while in custody of CIA staff 'named' three Cabinet Ministers of Punjab but respondent No.5 and other Police authorities tortured him to an extent that he does not open his mouth against them.

(95) The petitioner's case is that his son Jagdish Singh @ Bhola has been an International Athlete who was conferred the most prestigious Arjuna Award in wrestling in the year 1998 and the Maharaja Ranjit Singh Award in the year 2006 for distinguished performance in the field of wrestling. Much before that, he was awarded Bharat Kesri in the year 1992. He is stated to be Rustum-e-Hind as also Hind Kesri from 1992 onwards. In the Asian Games also, he held second position. Thus petitioner's son has been a distinguished sportsperson.

(96) The petitioner alleges that Parminder Singh Cheema, a DSP in Punjab police was also a Gold Medalist in wrestling but he having been defeated by the petitioner's son, hatched a conspiracy to involve Jagdish Singh @ Bhola in false cases under the NDPS Act. Three FIRs were registered on the same day i.e. FIR No.7,8&9 dated 16.01.2002 at PS Phool and PS Rampura in District Bathinda u/s 15 of NDPS Act against Jagdish Singh @ Bhola, alleging that the petitioner's son could not be caught at the spot as he ran away. However, Jagdish Singh @ Bhola was acquitted in those cases on 16.04.2005 and 13.07.2005, respectively. The Special Judge not only passed severe strictures against the police officials but also issued notice to them u/s 58 of NDPS Act for vexatious prosecution of the petitioner's son. Those proceedings are said to have been prolonged and dragged by police officers for a couple of years with a view to escape legal consequences.

(97) The petitioner alleges that undeterred by their prosecution ordered by the Special Judge in NDPS case, a detention order was passed against his son on 24.10.2005 u/s 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1985. That order was quashed by this Court on 21.05.2007 in CrI.Writ Petition No.1173 of 2006 (P6).

(98) Soon thereafter Jagdish Singh @ Bhola was implicated in FIR No.216 dated 02.11.2007 registered u/s 22/23/25/38/61/85 of NDPS Act registered at Police Station Samrala, District Ludhiana in which the High Court granted him anticipatory bail and finally he was discharged by the Special Judge, Ludhiana vide order dated 15.02.2011 (P8). A petition filed by the petitioner's son seeking a compensation of ₹20 lacs for his malicious and vexatious prosecution has been admitted by this Court.

(99) FIR No.45 dated 03.03.2013 was registered at Police Station Fatehgarh Sahib against Anoop Singh Kahlon from whom the recovery was allegedly effected in the presence of Gazetted Officer DSP Arshdeep Singh Gill who was SHO Police Station Rampur when FIR No.9 dated 16.01.2002 was registered against the petitioner's son. The acquittal and initiation of proceedings against police officers for vexatious prosecution in that FIR have since been briefly stated.

(100) Yet again to falsely entangle the petitioner's son in the FIR No.45 dated 03.03.2013, a raid was conducted at his house on 07/08.03.2013 without any search warrant or any lady Police officials being present and various valuable items including ₹75,000/- in cash were forcibly taken away from the family. The petitioner's son has been dragged in one more case FIR No.42 dated 22.03.2013 registered at Police Station, Sirhind in which no recovery was effected from him. Similarly, the petitioner's son has been falsely implicated in FIR No.69 dated 08.03.2013 registered at Police Station Mandi Gobindgarh and in that case also no recovery has been effected from him. Neither Jagdish Singh @ Bhola is named in the FIR nor any other accused has named him. He has still been embroiled on the hearsay statement of a person who is not even made a co-accused. Likewise FIR No.50 dated 03.04.2013 has been registered against the petitioner's son at

Police Station Urban Estate Patiala u/s 18/21/22 of NDPS Act and Section 25 of the Arms Act.

(101) The petitioner thus alleges that the very *modus operandi* of Punjab Police behind involving his son in the above-named FIRs is to harass and humiliate him for he has sought compensation of ₹20 lacs through a writ petition.

(102) The petitioner further alleges that his son has been given third degree torture while in police custody and when he was produced before the Judicial Magistrate at Mohali on 06.01.2014, Jagdish Singh @ Bhola named a Cabinet Minister of Punjab to be directly involved in the scam and this disclosure was widely published in various newspapers. However, the present day Government wants to save its Minister, therefore, there is no possibility of any fair or impartial investigation.

(103) The State of Punjab has opposed the petitioner's prayer through the reply/affidavit dated 12.09.2014 filed by Deputy Superintendent of Police, Rajpura, District Patiala. It is claimed that Anoop Singh Kahlon (a Canadian citizen) and his associate Kulwinder Singh were arrested on 03.03.2013 and a huge quantity of contraband was recovered from them besides a special packing material to evade detection by sniffer dogs and x-rays. Anoop Singh Kahlon named a few gang members including some NRIs and it was revealed that the petitioner's son Jagdish Singh @ Bhola is the kingpin who runs the gang.

(104) Based on this information, the police raided house No.984, Phase-10 Mohali of Jagdish Singh @ Bhola on 08.03.2013 and 10kg intoxicant powder along with packing and sealing material as well as 8,70,000 INR currency were recovered. Petitioner's son could not be arrested as he had gone underground. He was declared proclaimed offender by the Fatehgarh Sahib Court on 19.10.2013. Though four independent persons were joined as witnesses at the time when raid was conducted, only one

out of them signed the recovery memos as others were under the fear of enmity with Jagdish Singh @ Bhola and his gang.

(105) Giving the brief history of involvement of petitioner's son in various cases under NDPS act, the reply mentions the following list of cases registered against him:-

- (i) FIR No.07 dated 16.01.2002 u/s 15 of NDPS Act, PS Phool, District Bathinda;
- (ii) FIR No.08 dated 16.01.2002 u/s 15 of NDPS Act, PS Phool, District Bathinda;
- (iii) FIR No.09 dated 16.01.2002 u/s 15 of NDPS Act, PS Phool, District Bathinda;
- (iv) A case registered by National Crime Bureau at Mumbai;
- (v) FIR No.216 dated 02.11.2007 u/s 22,23,25,28 of NDPS Act, PS Samrala;
- (vi) FIR No.45 dated 03.03.2013 u/s 22 of NDPS Act, PS Fatehgarh Sahib;
- (vii) FIR No.42 dated 22.03.2013 u/s 22/61/85 of NDPS Act, PS Sirhind, District Fatehgarh Sahib;
- (viii) FIR No.69 dated 08.03.2013 u/s 21/22/61/85 of NDPS Act, 13 of FERA Act, 1999 PS Mandi Gobindgarh, District Fatehgarh Sahib;
- (ix) FIR No.69 dated 16.04.2013 u/s 22/61/85 of NDPS Act, 420, 467 468 471 IPC, PS Fatehgarh Sahib;
- (x) FIR No.56 dated 15.05.2013 u/s 21/22/61/85 of NDPS Act, 379, 411 IPC, 25 of Arms Act, PS Banur, District Patiala;
- (xi) FIR No.50 of 2013 u/s 21,22/61/85 of NDPS Act, 25 of Arms Act, PS Urban Estate, Patiala

(106) Jagdish Singh @ Bhola was arrested on 11.11.2013.

(107) As regards the statement made by the petitioner's son before the media naming the Minister, the reply/affidavit

maintains that during interrogation he never revealed names of any bigwigs or Minister and his belated statement before the Press on 07.01.2014 is an afterthought, given after due deliberations only to shift the burden and to save his own skin.

(108) The State of Punjab has placed on record an additional affidavit along with documents (R1 to R15). It is pointed out this Court has initiated *suo motu* proceedings in public interest by way of CWP No.20359 of 2013 pursuant to an application moved by Sh. Shashi Kant, Ex.DGP (Jails), Punjab in which one of the issues pertains to lack of coordination amongst various stakeholders CBI, Customs, DRI, NCB and Punjab Police etc. for controlling 'narco terrorism' in the State. The Central Bureau of Investigation in its reply/affidavit filed in the PIL has, *inter alia*, averred that the Central Agency, namely, Narcotic Control Bureau has been set up specifically to deal with the crime of narcotics/drugs and that the Bureau has necessary infrastructure, latest techniques, knowledge and information in this field. The Bureau has also dealt with such type of drug cases having its links abroad. The functioning of the Narcotic Control Bureau and the manner of investigating the offence is also stated to be similar to that of the CBI.

(109) Another reply-cum-status report filed on behalf of the Narcotics Control Bureau, *inter alia*, points out the manpower crunch in that organization. The copies of above-stated replies have been brought on record to suggest that in the given circumstances, there is no need to transfer the investigation to any other agency as Punjab Police is doing its duty dispassionately and the investigation carried out by it is being monitored by this Court through various status reports in the pending PIL.

(110) We have heard Mr. Vikram Chaudhri, Senior Advocate, Dr. Anmol Rattan Sidhu, Senior Advocate, Mr. VD

Goyal & GS Nahel, Advocates, Mr. CS Bakshi, Advocate, Mr. Pardeep Virk, Advocate, Mr. Manjit Singh, Advocate, Mr. Ranjan Lakhanpal, Advocate, counsel for the petitioners and Ms. Reeta Kohli, Additional Advocate General with Mr. Vaibhav Sharma, Deputy Advocate General for the State of Punjab. The records relied upon by them and the documents referred to by them during the course of hearing have also been carefully perused to gauge whether the investigation of these cases deserves to be transferred from Punjab Police to any other Agency. The reply/affidavits filed by the Central Bureau of Investigation and the NCB too have been kept in view.

**FACTS AND ISSUES COMMON TO ALL THE CASES:-**

(111) There has been complete unanimity amongst lawyers on all sides that there is a frightful plague of drug menace in the State of Punjab. The civic society groups, NGOs, media and several other stakeholders have time and again highlighted the plight of the huge amount of the populace addicted to synthetic drugs and other narcotics. The conventional means of inebriation like poppy husk, opium or liquor have given way to psychotropic substances and synthetic drugs. The only point of dissent between the parties centered around the blame-game as to who are the root causes for this torment. This Court is already seized of the matter in the Public Interest Litigation with an endeavour to identify those causes and their solutions.

**WHAT IS THE CHEMISTRY BEHIND NARCOTIC DRUGS?**

(112) The prosecution has projected that most of the petitioners constitute a ring of drug racketeers and each one of them has a role to play. The seeds of illicit drugs are said to be traceable in the premises of drugs manufacturers who have misused the licences obtained under Section 9-A of the NDPS Act notwithstanding the stringent conditions imposed on them. They have been allegedly siphoning the two well-known pre-cursors of

Methamphetamine (ICE) i.e. Pseudoephedrine and Ephedrine in a clandestine manner. The licit supply of these two 'controlled substances' to drug manufacturers at a concessional rate unfortunately lands up for illicit manufacturing of narcotics.

(113) The drug lords have engaged foreign-experts, some of them from Mexico, who convert these controlled substances into synthetic drugs. A team of bulk suppliers and then their conduits supply these drugs for which vehicles with VIP numbers are used. The thirst for easy and quick money lures the drug manufacturers to violate the mandatory provisions of Narcotic Drugs and Psychotropic Substances (Regulation of Controlled Substances) Order, 2013.

(114) The 'National Policy on Narcotic Drugs and Psychotropic Substances' while explaining the illicit manufacturing of synthetic and semi-synthetic drugs, has also highlighted that "a more recent phenomenon in India is the clan labs manufacturing amphetamines. While the number of amphetamine labs has been very small compared to major consuming countries, these clan labs pose a potentially large threat as precursors such as ephedrine and pseudoephedrine are legally produced and traded in the country in significant quantities. Instances have also come to notice where pharmaceutical preparations containing ephedrine were diverted from domestic distribution channel and extraction of ephedrine there from for illicit manufacture of ATS. Some consignments of green tea extracts containing 'ephedra vulgaris' were seized and detained abroad as the regulations of European Union and some countries in South America do not permit use of ephedra preparations in which small amount of ephedrine was found. These can be diverted from the licit trade and converted into amphetamines for trafficking both within and out of India".

(115) The police version further suggests that the drug racketeers in Punjab have nexus across the border also and various NRIs living in Canada or UK are involved in this illicit trade.

**GROUND'S PLEADED BY PETITIONERS FOR TRANSFER OF INVESTIGATION**

(116) Before we move to the common grounds taken by all the petitioners in support of their demand for independent investigation by CBI etc., it would be apt to recapitulate the contentions raised by Mr. Vikram Chaudhri, learned senior counsel in *Jagjit Singh Chahal's* case (CWP-88-2014), alleging false implication of that petitioner for the reasons that:-

- (i) There are totally unsubstantiated allegations of diverting 'controlled substance' in violation of and/or misuse of the licence granted by Narcotics Control Bureau (NCB);
- (ii) it stands conceded that Chahal was actually arrested on 13.11.2013 and not on 14.11.2013 as was initially shown by the Police in the Arrest Memo, Memo of Personal Search and Memo of Disclosure Statement etc. while seeking his police remand;
- (iii) the car from where alleged recovery was effected on 14.11.2013, was being driven by a police official from the petitioner's residence in Amritsar as may be seen in the CCTV camera and thus the so-called recovery is totally fake;
- (iv) there is a clear tampering, interpolation and editing etc. in the official documents attached with the challan like Arrest Memo, Memo of Personal Search and of Disclosure Statement so as to cover up the petitioner's arrest on 13.11.2013;

- (v) the recording in CCTV camera clearly establishes presence of Amritsar police and not the police of district Patiala who has falsely implicated the petitioner;
- (vi) the drug authorities of Himachal Pradesh were not associated due to alleged paucity of time which is totally false as the search warrant was taken on 14.11.2013 whereas the search was conducted on 16.11.2013;
- (vii) the drug authorities have certified that the petitioner's unit had a valid licence and it could maintain unlimited stocks and if at all there was any violation of the conditions of licence, whether by diversion or defalcation, action could be taken by the licensing authority alone and not the Punjab Police;
- (viii) the so-called recoveries have neither been witnessed by the Drug Authorities of Himachal Pradesh nor the Police of Himachal Pradesh or any official from Department of Industries of that State were joined;
- (ix) the recovery from the petitioner's Honda Accord car on 14.11.2013 or of the Bolero vehicle from his Mohali office on 18.11.2013 is also a fabricated story as the CCTV camera recordings reveal that Honda Accord car was driven away by a police officer from the petitioner's residence and not from their Tyre Factory. The Bolero vehicle was also taken away by a policeman on 14.11.2013 from his residence in Amritsar;
- (x) the petitioner has in his reply to the show cause notice issued by State Drug Controller, Himachal Pradesh fully explained the genuineness of the 'sale invoices' with help of "batch manufacturing record". The quarterly returns were timely filed. In November,

2013 samples were drawn and were sent for testing at Government Laboratory, Kandaghat and those reports are found satisfactory;

(xi) The finished goods were sold to various firms and all the invoices along with transport GR & Sales Tax Form-26 were filed with the Excise and Taxation Department of Himachal Pradesh;

(xii) The Superintendent of Police, District Baddi vide communication dated 09.03.2015 has informed the petitioner that no official from Himachal Pradesh Police was associated or visited his pharmaceutical manufacturing units between 13.11.2013 to 17.11.2013.

(117) Similarly, in the case of Manpreet Singh @ Mani Gill (CRM-M-17238-2014), his learned counsel strenuously urged that:-

- (i) the petitioner is a victim of demand for hefty bribe by the Punjab police;
- (ii) the sting operation conducted on a police official (Harjit Singh Belt No.363) clearly set out the motive behind the petitioner's arrest;
- (iii) the presence of police officials for the receipt of gratification i.e. fifty lakh rupees near Mukarba Chowk, New Delhi and the remaining fifty lakh rupees near Fawara Chowk, Ludhiana is well established from the call records of their mobile phones;
- (iv) the physical torture given to the petitioner to extract confession or the so-called disclosure statements have been strongly condemned by the Canadian Embassy who has further supported the petitioner's prayer for independent investigation;
- (v) the photographs of the police officials found present at his residence in Ludhiana reinforce his allegations;

- (vi) the audio recording of calls between the petitioner's brother-in-law from Canada and investigating Officer (Dalbir Singh Grewal) display the petitioner's false implication;
- (vii) the reports from Truth Labs on the genuineness of audio/video recordings made by the petitioner's family on different occasions are indeed decisive and ought to be probed by an independent agency;
- (viii) the accusation made by the petitioner's friend Ravinder Grewal @ Robin who is a Canadian citizen after he returned Canada, also corroborates the petitioner's version.

**OTHER COMMON GROUNDS TAKEN BY ALL THE PETITIONERS**

(118) Other petitioners have also tried to make out a case for independent investigation of the cases involving them broadly on the following grounds:-

- (i) The pharmaceutical units have got valid licences issued by competent authorities like the State Drug Controller, Narcotic Control Bureau and Industries Department etc. They have not been found lacking in compliance of statutory conditions in running the manufacturing units;
- (ii) Fake recoveries mostly from vehicles parked in or outside the factory premises have been planted. No search or seizure operation was carried out with advance intimation to the licensing authorities or the local police;
- (iii) The actual cause behind registration of these false cases is a pre-emptory step so that this Court may not in PIL jurisdiction hold the Punjab Police guilty of protecting the mighty and affluent politicians or

bigwigs who are actually involved in the illicit drug trade;

- (iv) Political scores are being settled while pretending to curb the drug menace. The story *re.* recovery of synthetic drug or narcotics in each case is so artificial that no sane person can believe the police story. The so-called recoveries were not witnessed by any independent witness even when they were effected from residential houses located in thickly populated areas;
- (v) The recoveries are claimed to have been made from bushes, road or river sides, mostly on disclosure statements, which renders the police version full of skepticism;
- (vi) The propaganda of fighting against narco-terrorism is a crude device to extract illicit income as innocent people are being implicated to coerce them to pay hefty bribes to police;
- (vii) The so-called disclosure statements of petitioners or their co-accused implicating each other have been devised forcibly through third degree treatment;
- (viii) A distinguished career as a sportsperson or in politics has also been an eye-sore for the disgruntled rivals who, due to their close proximity with the seat of power, have ensnared some of the petitioners in false cases;
- (ix) The call details of mobile numbers of the police officers which are duly preserved under the orders passed by the Special Judge, Fatehgarh Sahib or the audio/video recordings on CCTV cameras and sting operations also fortify the false implication of petitioners.

(119) Counsel for the petitioners also cited a catena of decisions where the investigation was entrusted to independent agency like CBI, keeping in view the serious allegations made against the local police due to which credibility would have been at stake had the same police investigated the matter. A brief reference to these decisions is made in the later part of this order.

(120) Ms. Reeta Kohli, Addl. AG and Mr. Vaibhav Sharma, DAG representing the State of Punjab and its Police Department very strenuously refuted the allegations leveled against the Punjab Police. They urged that not only this Court in exercise of its public interest jurisdiction but several other stake holders expressed their concern against the narco-terrorism. The Punjab Police having been sensitized to unearth the drug mafia, successfully busted the racket on 03.03.2013 when Anoop Singh Kahlon (NRI) along with his associate was arrested and a huge haul of narcotic drugs and psychotropic substances was recovered. Their interrogation revealed that there is a well-knit drug mafia operating throughout the country but mostly led by persons of Punjab origin. Jagdish Singh @ Bhola emerged out their kingpin who had a large network beyond the boundaries of Punjab State i.e. Goa, Delhi, Himachal Pradesh, Haryana etc. The petitioners are claimed to be the active members of such drug mafia. While some of them are involved in siphoning of the precursor to manufacture ICE, a few others are experts in such manufacturing. Their other gang members are the traders who operate through a well organized sector in which even police officers/officials are involved.

(121) Reiterating the stand taken by the police authorities in their reply/affidavits filed in Jagjit Singh Chahal, Manpreet Singh @ Mani Gill or other connected cases. They further argued that:-

- (i) the quantity of narcotic drugs or psychotropic substances recovered in these cases is worth

hundreds of crores of rupees in the illicit drug market that the police cannot be expected to arrange such huge quantity only to falsely implicate the petitioners;

- (ii) Most of the recoveries have been effected from the premises or the vehicles of petitioners because the same were kept for ready-to-move purposes;
- (iii) The unprecedented rise in the immovable assets of petitioners or their family members without known or disclosed sources of income is a clincher to establish their complicity in drug trafficking;
- (iv) The assets of Jagjit Singh Chahal and his family are worth more than ₹72 crores while of Jagdish Singh @ Bhola and his family are over ₹18 crores. Similarly, Maninder Bittu and his family own properties valuing more than ₹28 crores;
- (v) The Enforcement Directorate and the Prescribed Authority under the Prevention of Money Laundering Act, 2002 are Central Government agencies who have independently considered the amassing of illicit assets by the petitioners and most of their properties were attached/seized as these were purchased/created by the proceeds of crime. The Provisional Attachment Order No.1/2014 dated 06.01.2014 passed by the Directorate of Enforcement in the case of Anoop Singh Kahlon and Manpreet Singh @ Mani Gill was referred to as in its para 13.1.7, it has been categorically held that *“in view of the above, the Complainant considers the amount of Rs.1,00,00,000/- as proceeds of crime”*.
- (vi) The Drug Control Authorities of various States like Tamil Nadu, Andhra Pradesh, Maharashtra have

verified that the consignees to whom the drug manufacturing units of Jagjit Singh Chahal are claimed to have supplied the manufactured drugs with controlled substance either do not exist or the invoices are not 'genuine'. For example, the Assistant Commissioner, Food and Drug Administration, Jalgaon (Maharashtra) informed on 16.09.2014 to the State Drug Controller, Himachal Pradesh that "*all invoices in the name of Smartmind Health Care, Jamner and Paris Medicament Jalagaon were found forged and they have not purchased the said medicines through these invoices*". Similarly, M/s Vishwak Pharma (Guntur), M/s Novagen Captab (Chandigarh) and M/s Bhivani Medical and Genral Stores (Nizamabad) and to whom manufactured drugs were 'sold' are reported to be not existing.

- (vii) Likewise the Department of Drugs Control, Tamil Nadu vide their letter dated 29.09.2014 informed the Drug Controller in Himachal Pradesh that 6 invoices pertaining to M/s Elixia Life Sciences, Coimbatore and M/s Orsim Pharma, Coimbatore were found to be not genuine;
- (viii) Further, the State Drugs Controller, Himachal Pradesh has as late as on 01.08.2015 informed the Senior Superintendent of Police, Patiala that the product licenses of Pseudoephedrine and Ephedrine formulations of both the manufacturing units of Jagjit Singh Chahal were suspended vide two separate orders dated 04.12.2013 and those licenses have not been restored as the cases are under investigation with the Drug Inspector, Baddi;

- (ix) The allegations was of causing physical torture are false as Manpreet Singh @ Mani Gill was periodically examined by Government Medical Officers who, vide medical reports dated 09.03.2013, 12.03.2013, 14.03.2013, 16.03.2013 and 18.03.2013, specifically reported that no injury mark, was found on his person at the time of such examination and these reports were duly produced before the Judicial Magistrate. All these medical reports are duly signed by the petitioner as well.
- (x) The Ministry of Home Affairs, Narcotics Control Bureau (Department of Internal Security), Govt. of India has verified and sent a report dated 12<sup>th</sup>/13<sup>th</sup> January, 2015 that Manpreet Singh @ Mani Gill *“was arrested on 07<sup>th</sup> July, 2001 in U.S. for a drug violation. No charges were filed in this case”*. He was also detained for immigration violation and was *“deported from the U.S. on 29<sup>th</sup> March, 2002”*.
- (xi) The Royal Canadian Mounted Police has allegedly sent the report dated 09.08.2013 to Punjab Police HQ after conducting investigations *“into the background of Manpreet Singh GILL and his immediate family following his arrest in Punjab in March 2013”*. This report claims:-  
*“The following Canadians have been confirmed as suspects with linkages to this case.*
- *Manpreet Singh GILL (Alias “Mani”) 1978 April 19*
  - *Deepinder Singh GILL (Alias “Pindi”) 1980 December 05*

- *Daljeet Singh Gill (Father of Manpreet and Deepinder) 1948 September 17*

- *Anoop Singh KHALON*

*The Gill family owns/controls the following two businesses in Canada which are believed to be used to transfer and launder proceeds of crime.”*

- (xii) Mr. Kelly F Brophy from Royal Canadian Mounted Police, Liaison Office from Canadian High Commission is said to have sent yet another report pertaining to a case which *“involved a controlled delivery of 300kg Ketamine found in secreted in 40 barrels of Tert-Butanol in a shipping container that originated in India. The shipment was consigned by Shiv Jyoti Sales Corporation in Delhi and originally destined for Starchem Incorporated, C/O Gap Investments Inc in Montreal, Quebec. It was later re-directed to a storage location at 2-250 Trowers Road, Woodbridge Ontario. The Barrels remained here for 2 days before they were removed and loaded into a trailer and stored at Mulla Logistics/AD Tractor and Trailer Repair, truck yard located in Brampton, Ontario, Movement and storage of the barrels was arranged by Deepinder Gill under the alias “Gary” and the rental arrangements were paid in cash. Surveillance was continuous throughout the shipping and movements however the load was not collected. RCMP finally discontinued surveillance and seized the trailer containing the shipment on 2012 August 25.*

*\*\*This information has previously been shared with the Directorate of Revenue Intelligence with whom our office collaborated on this case.\*\**

*The Investigation in Canada failed to produce sufficient evidence to support criminal charges. On a positive note however, investigators are certain this organized criminal group (family) is responsible for the importation of the Ketamine on the OBARIL. The degree of sophistication the group has displayed in distancing individuals from the criminal activity to evade arrest is indicative of a long history of criminal activity. A particular concern is the strong suspicion they are laundering the proceeds of their criminal activities through the Foreign Exchanges they control...”;*

- (xiii) The Central Bureau of Investigation has in its reply/affidavit dated 27.01.2014 filed in PIL shown its reluctance to take over investigation of NDPS cases for want of technical know-how or expertise in dealing with the crime of Narcotics/drugs and recommended that the Narcotics Control Bureau which possesses such requisite experience and expertise would be the appropriate Agency for investigation of these cases;
- (xiv) The Narcotics Control Bureau in its reply/affidavit dated 03.03.2014 has discussed that it lacks manpower for taking over the investigation of all drug related cases. This Court vide order dated 29.01.2014 took notice of the stand taken by CBI and NCB in the PIL and thereafter clearly observed on 05.03.2014 that the investigation by the Punjab Police was proceeding properly;

- (xv) Manpreet Singh @ Mani Gill had earlier also approached this Court in CWP No.9336 of 2014 which was disposed of 02.07.2014 with a direction to the Narcotic Wing headed by Mr. Ishwar Singh, IPS Inspector General of Police “to consider/determine all the points raised by the petitioner including serious and glaring allegations leveled against the police authorities”. The Narcotics Wing of the Punjab Police in compliance of those directions considered the petitioner’s allegations and its report lying in sealed cover may be perused;
- (xvi) The Punjab Police has carried out the investigation objectively and did not spare its own officials like SI Sarabjit Singh;
- (xvii) The political bigwigs like Bittu Aulakh who have been enjoying political patronage of the Ruling party have also not been favoured;
- (xviii) The petitioners are at best claiming themselves to be innocent but such a plea can be taken only before the Special Court where charge-sheets were filed and charges have been framed and in some of the cases, a few prosecution witnesses have also been examined;
- (xix) It would not be expedient to direct fresh or re-investigation into these cases when the matter is *sub judice* before the Special Court and all the petitioners’ contentions can well be considered by that Court;
- (xx) This Court should exercise its power to refer the investigation to an independent agency like CBI only sparingly when the material on record creates a reasonable doubt in its mind that the innocent have

been implicated and the culprits have gone scot-free, which is not the case here;

- (xxi) This Court is already monitoring the progress of these cases as is evident from the status reports submitted by the Punjab police from time to time in the PIL proceedings;
- (xxii) The State of Punjab has set up its own State Narcotics Control Bureau and the Director General of Police has constituted a team comprising the Director of that Bureau and DIG Administration to review the investigation of these cases including “examination of fairness of investigations conducted so far” and also to identify the areas uncovered by the investigations so that supplementary investigations could be conducted” etc.;
- (xxiii) The petitioner-Jagjit Singh Chahal is making all out efforts to stall the ongoing trial so as to evade the consequences even when most of his contentions have been rejected Hon’ble the Himachal Pradesh High Court in CWP No.3496 of 2014 (MBP Pharmaceuticals P.Ltd. vs. State of Himachal Pradesh) dismissed on 20.08.2014.

(122) The power of a High Court to direct CBI or any other independent agency to investigate a cognisable offence without the consent of the State Government has been authoritatively pronounced by the Constitution Bench in **State of West Bengal & Ors. vs. The Committee for Protection of Democratic Rights West Bengals & Ors., (2010) 3 SCC 571**, of course with a caveat that such order is not to be passed as a matter of routine or merely because a party has levelled some allegation against the local police. The extraordinary powers must be exercised

sparingly, cautiously and in exceptional situations where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national and international ramifications or where such an order may be necessary for doing complete justice and enforcing the fundamental rights.

(123) Such power of a Constitutional Court where it is satisfied that the accusation is against a person who by virtue of his office could influence the ongoing investigation and cause prejudice to the complainant or victim, has been re-enforced (i) **State of Punjab vs. Davinder Pal Singh Bhullar & Ors. (2011) 14 SCC 770** (ii) **State of Punjab vs. Central Bureau of Investigation, 2011(9) SCC 182**; and (iii) **Rashmi Behl vs. State of Uttar Pradesh & Ors., (2015) 2 SCALE 452**. Earlier also, these principles were reiterated in (i) **RS Sodhi vs. State of UP & Ors. (1994) 1 Suppl. SCC 143**; and (ii) **Kashmeri Devi vs. Delhi Administration & Anr., (1988) Suppl. SCC 482**.

(124) In **Sasi Thomas vs. State & Ors. (2006) 12 SCC 421**, it was held that the directions for further investigation even after commencement of the trial can be issued by the Supreme Court or High Court in case of complete failure of justice and the failure of investigating agency to perform its duty. On facts, no direction for further investigation was issued as 47 witnesses had already been examined though the trial court was permitted to alter the charge(s).

(125) In **Rubabbuddin Sheikh vs. State of Gujarat & Ors., (2010) 2 SCC 200**, the case of Sohrabuddin fake encounter was transferred to CBI at a stage when State police had completed investigation and charge-sheet had been submitted. The principle laid down was that in a case of police inaction/atrocities, it is necessary to ensure that investigation should not only be fair but

also seen to be fair so as to instill fairness in the minds of the victims' relative and the general public.

(126) In **Vineet Narain & Ors. vs. Union of India & Anr., (1996) 2 SCC 1999**, the Supreme Court held that where the matter involved great public interest like 'Hawala' transactions, the CBI or other authorities ought to be directed to conduct proper and expeditious investigation.

(127) **Zahira Habibulla H. Sheikh v. State of Gujarat & Ors. (2004) 4 SCC 158**, recognizes the power of the Court to order re-trial depending upon the peculiar facts and circumstances of a case. Similarly, the power to order re-investigation was also reiterated on the grounds like -

1. *Dishonest and faulty investigation.*
2. *Trial held in perfunctory manner - Large number of PWs turning hostile and resiled.*
3. *Star witnesses threatened.*
4. *Prosecuting Agency not acted in requisite manner - Public Prosecutor rather acted as defence counsel.*
5. *Large number of PWs not examined for one reason or the other - Even injured witness not examined.*
6. *Some of the PWs examined who was relation of witness.*

(128) Some of the decisions cited on behalf of petitioners to strengthen their other contentions, include **Babubhai Jamnadas Patel vs. State of Gujarat & Ors, (2009) 9 SCC 610** where the ongoing investigation was tardy and slow and the decision of the High Court to keep watch on the investigation to prevent miscarriage of justice and repeatedly intervene and pass orders to ensure that the investigation was conducted diligently was upheld.

(129) **Suresh Kumar v. Union of India & Ors., 2015(3) R.C.R.(Criminal) 340** was a case where the prosecution version in NDPS case was that the recovery of heroin was effected near the bus stand whereas the contention of the accused was that

police officers were not present at the bus stand at the relevant time and were at some other location. The application of the accused to summon call records of mobile telephone of the concerned police officers to establish their location was accepted.

(130) **Lalita Kumari v. Govt. of U.P. & Ors. (2014) 2 SCC 1**, lays down that if the information discloses commission of a cognizable offence, no preliminary enquiry is permissible and it is mandatory to register FIR in view of Section 154 of the Code of Criminal Procedure. It is only if the information so received does not disclose a cognizable offence that the necessity for an enquiry may arise and therefore the police officer cannot avoid his duty of registering offence if cognizable offence is disclosed.

(131) **Keki Hormusji Gharda v. Mehervan Rustom Irani, (2009) 6 SCC 475**, explains the scope of power exercisable under Section 482 CrPC and holds that a petition seeking quashing of criminal proceedings ought not to be dismissed on the ground that the remedy of discharge was available to the accused petitioner.

(132) **Rameshchandra Nandlal Parikh v. State of Gujarat, 2006(1) SCC 732** has been cited to point out that if during the investigation independent and distinct offences have been committed then every such incident would require a separate FIR.

(133) Ms. Reeta Kohli, Addl. AG Punjab cited **Jude Chidibere & Ors. vs. NCB, 2013(7) RCR (Crl.) 2881** to stress that where re-investigation was sought largely on the basis of affidavits containing statements, it was held that such affidavits cannot be taken into consideration to direct re-investigation as it will amount to not only taking the defence available to the petitioner into consideration at the threshold of trial but also to ask the investigating agency to verify such defence plea, thereby

relieving the petitioners of discharging the onus placed upon them by law. It was further held that where cognizance of the offence has already been taken and trial is going on under the NDPS Act, it would not be appropriate for the Court to direct fresh investigation or re-investigation by some other agency.

(134) We may also refer to **Disha vs. State of Gujarat & Ors., (2011) 13 SCC 337** where the prayer to transfer investigation to CBI in a case of financial scam alleging collection of ₹60 crores by petitioner's husband on false assurance of high premium from time to time, was rejected by the Supreme Court observing that (i) the petitioner had not alleged that any investor was powerful/capable enough to influence the investigation; (ii) the simple allegations were of harassment and alleged suppression of material information by the police; (iii) similarly, there were allegations of uncoordinated investigation due to corruption etc. and (iv) abetment of suicide of her husband by politicians, bureaucrats and influential businessmen. As the petitioner did not allege any actual harassment by or *mala fide*/bias by State investigation there were no grounds for transferring investigation to CBI since the grounds were purely based upon apprehension. Thus, it was held that the same were not cogent reasons to interfere with the ongoing investigation.

(135) It would be equally apt to cite **Sudipta Lenka vs. State of Odisha & Ors., (2014) 11 SCC 527** where the Supreme Court declined the prayer to transfer the investigation to CBI or any other specialized agency in a case registered under Section 302/449/450/120-B IPC laying down as follows:-

*“9. The position has also been succinctly summed up in Disha (supra) to which one of us (the learned Chief Justice) was a party by holding that transfer of the investigation to the Central*

*Bureau of Investigation or any other specialised agency, notwithstanding the filing of the chargesheet, would be justified only when the Court is satisfied that on account of the accused being powerful and influential the investigation has not proceeded in a proper direction or it has been biased. Further investigation of a criminal case after the chargesheet has been filed in a competent court may affect the jurisdiction of the said Court under Section 173 (8) of the Code of Criminal Procedure. Hence it is imperative that the said power, which, though, will always vest in a Constitutional Court, should be exercised only in situations befitting, judged on the touchstone of high public interest and the need to maintain the Rule of Law.”*

**CONCLUSIONS:**

(136) We have carefully considered the rival submissions and gone through the case-laws cited from both sides. The power to transfer or entrust the investigation of a case to an agency like Central Bureau of Investigation without the consent of State Government indubitably vests in the High Court. Nonetheless, one cannot invoke that power as a matter of right or by mere levelling allegations against the local police. Since the power flows from extraordinary jurisdiction conferred under Article 226, it has to be exercised sparingly, cautiously and only in exceptional circumstances with the avowed object to restore credibility and instill confidence in the ongoing investigation.

(137) The fair, honest, scientific and unprejudiced investigation is surely an axiom of the right to live with dignity. It is an integral part of one's fundamental as well as human rights. Such a right does accrue when the ongoing investigation by the

local police lacks credibility or is hampered by influential and powerful people. Equally important is the evaluation of comparative efficacy and capability of the local police vis-à-vis the new agency, for securing timely, fair, equitable and unbiased investigation. Yet another relevant factor would be in regard to who has sought the transfer of ongoing investigation, namely, the suspects of the crime or its victim(s)? The majority of the cases where the Apex Court or High Courts have entrusted investigation to an independent agency are at the instance of the victims of crime who were at the receiving end due to the lackadaisical, offhand and callous approach of the investigating agency, or because police officials themselves were accused in the case, or when involvement of an influential person was causing an impediment to the fair investigation by the local police.

#### **ALLEGATIONS AGAINST THE LOCAL POLICE**

(138) Adverting to the allegations leveled by the petitioners against the local police, it may be seen that the senior-most officer accused of falsely implicating one of them (Manpreet Singh @ Mani Gill) is statedly in the rank of 'Senior Superintendent of Police'. He has neither been named nor impleaded as a party respondent. The other police officers facing accusations are one DSP, three Inspectors and some Sub Inspectors, who are incidentally posted as SHOs of the police stations where subject FIRs have been registered and/or are members of Special Investigating Team. The Police cadre of Punjab State comprises more than 150 IPS Officers out of whom at least 65 Officers are in the ranks of DGP, ADGPs and IGPs etc. It would be too unfair, and unjustified to presume that none of these senior officers is above-board or that each one has succumbed to some hidden pressure which the petitioners have miserably failed to disclose.

(139) Most of the petitioners are resourceful persons. Many of them are affluent entrepreneurs who have flourishing

businesses, landed properties and hold different important positions. There is no established or believable history of past animosity between them and the police officials investigating these cases.

(140) We hasten to add that one of the petitioners – Sub Inspector Sarabjit Singh has alleged bias against Sh. Sikander Singh Malooka, Education Minister, Punjab. The allegation is based upon a trivial incident that occurred in 2006. Firstly, the Education Minister has denied on oath his involvement in the matter on oath and secondly SI Sarabjit Singh owes an explanation as to how he has been enjoying the most plum postings till his name surfaced as an active associate of Jagdish Singh @ Bhola. The chequered record of SI Sarabjit Singh including his involvement in criminal case(s) in Madhya Pradesh, does not inspire any confidence in his allegation of political victimisation.

(141) Similarly, Maninder @ Bittu Aulakh himself says that he is an ardent supporter of a seasoned politician of the Ruling party, namely, a former MP whose son is a sitting MLA. In a group rivalry as claimed by him, the axe should have fallen on the group leaders and not the supporters. Secondly, the petitioner has failed to point out even a single instance regarding who the person in power whom he annoyed was and what role was attributable to that person in carrying out State-wide operations against the drug traffickeers. There is some merit in the respondents' contention that the petitioner would be under a heavy onus to explain his known sources of income for establishing a big empire comprising hotels, petrol pumps, real estate business besides numerous properties.

(142) The petitioners have accused the Punjab police of bailing out some affluent persons allegedly involved in the drug racket. Such a plea will be surely worth consideration if raised at

the instance of a victim, a vigilant citizen or in *pro bona publico* but not at the instance of suspects of the crime. Assuming that the allegation is correct, it still does not clothe the petitioners with any right to seek their discharge without facing the trial. It goes without saying that the Special Court has got ample powers under Section 311 CrPC to summon any material witness and examine such person if his evidence appears to be essential to the just decision of the case. Similarly, the trial court can invoke its powers under Section 319 of the Code to proceed against a person when it appears from the evidence during the course of trial that such person not being the accused has committed any offence and is liable to be tried together with the accused. The recourse suggested above has got the seal of approval in **Sasi Thomas** case (supra). Moreover, the question of partial investigation is open to debate in the ongoing public interest litigation. Any deliberate or inadvertent lacuna left by the investigating agency can be effectively remedied through appropriate directions, if need be.

(143) This would take us to the next question i.e. whether the petitioners have been implicated solely to coerce them to bribe the police authorities. Manpreet Singh @ Mani Gill has accused the police of his false implication as a *quid pro quo* to demand gratification of ₹50 lacs which was then increased to ₹1 crore. The said allegation has to be viewed in the light of the police version contained in the FIR that the amount of ₹1 crore was recovered from the petitioner and his co-accused along with a huge quantity of contraband. Both these versions are under judicial scrutiny of the Special Judge where the police has already presented the charge-sheet. The petitioner has relied upon (a) audio/video recordings; (b) mobile phone call details (c) the reports or complaints sent by Canadian Embassy; (d) the complaint sent by his friend Ravinder Grewal @ Robin; and (e) the reports of Truth Labs etc. etc. to substantiate his allegations. The veracity of

these allegations or counter- allegations can be determined only by the Special Court after the evidence is led by the parties. The investigating agency whosoever may be has got no jurisdiction to pronounce a verdict on the guilt or innocence of the petitioner. The Enforcement Directorate has declared the said amount of ₹1 crore as an illicit income and the matter is *sub judice* before the Special Judge, hence it is not expedient or desirable to comment upon the merits of such allegations.

(144) Further, while looking into the aforesaid allegations for the purpose of whether it would be justified to entrust the investigation to an independent agency like CBI, it has also to be kept in view that the petitioner's allegations have already been re-examined by a team of two officers who are in the rank of Inspector General of Police and DIG including Mr. Ishwar Singh, IPS, Inspector General of Police who is the head of Narcotic Wing of Punjab Police.

(145) As regard to the second prayer made by Manpreet Singh @ Mani Gill, to release him on bail, we do not express any opinion in this petition, rather grant him liberty to firstly seek such relief before the Special Court, if not applied earlier and then he may separately move this Court. The observations made in this case shall have no bearing on merits of his prayer for bail.

**Whether implication of pharmaceutical manufacturers in NDPS cases is *ex facie* illegal?**

(146) The plea that the pharmaceutical industries located outside the State of Punjab have been implicated in total abuse of the police powers rests on the premise that such manufacturing units are duly licensed by the State Drug Controller(s) or the Narcotic Control Bureau whereunder they are lawfully entitled to manufacture, distribute, sell, purchase and possess the controlled substances included in Schedule 'A' of NDPS Act. The breach of any condition prescribed in these licences or the Rules, it was

urged, may entail penal consequences at the instance of the Licensing Authorities but the Punjab Police has got no power to slap NDPS cases on the petitioners.

(147) Before dwelling upon this issue further, it is useful to notice the legislative scheme and Object behind the NDPS Act, which has been enacted to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances and to provide sufficiently deterrent penalties to meet the challenges of well organized gangs of drug traffickers. Also, the repealed laws did not confer the power of investigation of the offences on the officers of Central Enforcement agencies. It was realised that the new drugs of addiction known as Psychotropic substances have appeared on the scene and pose a serious threat to the health and welfare of the people.

(148) As per Section 2(viid) of the Act, the “controlled substances” are those as notified by the Central Government in the Official Gazette on receipt of the information. Section 2(viiia) defines “illicit traffic” in relation to narcotic drugs and psychotropic substances and the activities like production, manufacture, possession, sale, purchase, transportation etc. are included therein. The expressions “narcotic drug”, “opium derivative” and “psychotropic substance” [clause (xiv), (xvi) and (xxiii) of Section 2 respectively] have been defined exhaustively and any preparation containing more than 0.2% of morphine or diacetylmorphine also constitutes ‘opium derivative’. The expression “psychotropic substance” includes any substances, natural or synthetic or any natural material or *“any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule”*.

(149) Section 9A of the Act empowers the Central Government to regulate or prohibit the production, manufacture, consumption, use, storage, supply, distribution as well as trade

and commerce therein of a controlled substance which is used in the production or manufacture of any narcotic drug or psychotropic substance. Its sub-section (2) contemplates the grant of licence or permit for the afore-stated purposes of any controlled substance. Whoever in contravention of the provisions of the Act or the conditions of licence, carries out any such activity is liable to be punished under Section 21 with rigorous imprisonment which may go upto 20 years besides fine running into lacs of Rupees. If there is a contravention in relation to a psychotropic substance, such violator is also liable to be punished under Section 22 in the same manner as provided in Section 21 of the Act.

(150) The contravention of Section 9A is also an offence under the Act for which rigorous imprisonment for a term upto 10 years with fine of ₹1 lac is prescribed (Sec.25A). Even the employees of the licence holder, if found acting on behalf of such licensee, are liable to be punished for these contraventions under Section 26 of the Act. The effect of the policy of deterrence is further visible from Sections 27-A, 28, 29 & 30 of the Act which provide punishment (i) for financing illicit traffic and harbouring offenders; (ii) for attempt to commit offences; (iii) for abetment and criminal conspiracy; and (iv) even for preparation to do or omit to do anything which constitutes an offence punishable under the Act.

(151) There are two more significant provisions i.e. Sections 36-A & 37 of the Act, both starting with *non obstante* clauses. While 36-A mandates that all the offences are triable by Special Courts, Section 37 declares these offences to be cognisable and non-bailable and it further imposes stringent conditions for the grant of bail.

(152) Chapter-V of the Act deals with the procedure whereunder the power of entry, search, seizure, arrest, confiscation, attachment as well as of power to stop and search

conveyance when there is a reason to suspect that such conveyance is about to be used for the transport of any narcotic drug or psychotropic substance or controlled substance, have been conferred on the authorized officer(s). Chapter VA of the Act prescribes the procedure to forfeit the properties derived from or used in illicit traffic by a person.

(153) The Narcotic Drugs and Psychotropic Substances Rules, 1985 have been formulated in exercise of power under Section 9 of the Act. Rule 37 of these Rules prohibits the manufacturing of the drugs notified under sub-clause (b) of clause (xi) of Section 2 of the Act save in accordance with the conditions of a licence granted by the Prescribed Authority of Central Government. Rule 46 requires the licensee to “maintain true accounts of all transactions including the accounts of materials used for the manufacture of the drug, the quantities manufactured, sold or otherwise disposed of and furnish returns in such forms and in such manner as may be specified”. Rule 64 imposes a categoric ban on the manufacturing, possessing, transportation, import inter-State, export inter-State, sell, purchase, consumption of any psychotropic substance specified in Schedule I unless a licence is obtained in accordance with Rule 65. No consignment of psychotropic substance can be transported, imported or exported inter-State unless such consignment is accompanied by a consignment note in the prescribed format (Rule 67).

(154) The Central Government in exercise of powers conferred by Section 9A, has notified the Narcotic Drugs and Psychotropic Substances (Regulation of Controlled Substances) Order, 2013. Clause 4(1) of this Order imposes a clear prohibition on the manufacturing, distribution, sale, purchase, possession, store or consumption of any controlled substance included in Schedule A “*without a unique registration number in Form-A*

*issued by the Zonal Director of Narcotics Control Bureau”. Sub-Clause (5) of Clause 4 further provides that “every person who has been registered under sub-clause (1) shall maintain daily accounts in Form C or Form D, as the case may be and the records of the daily accounts shall be preserved for a minimum period of five years from the date of last entry”.*

(155) Every loss or disappearance of the ‘controlled substance’ included in Schedule A is required to be immediately reported to the prescribed authority. As regards its transportation, Clause 7(1) of the 2013 Order says that *“no consignment of controlled substance in Schedule A shall be moved from one place to another place, within India, except when it is accompanied by a consignment Note in Form G”.*

(156) Clause 8 of the Order provides that no person shall sell a ‘controlled substance’ in Schedule A to a buyer who does not possess valid registration number issued under sub-clause (i) of Clause 4. Schedule ‘A’ of 2013 Order enlists the following ‘controlled substances’:-

1. Acetic anhydride
2. N-Acetylanthranilic acid
3. **Ephedrine and its salts**
4. **Pseudoephedrine and its salts**

(157) It thus emerges that Ephedrine and its salts and Pseudoephedrine and its salts are included in Schedule ‘A’ and their manufacturing, distribution, sale, purchase, possession, storage or consumption including transportation has to be carried out strictly as per the provisions contained in the 2013 Order. If there is any contravention of such provisions, Section 9-A of the Act is directly attracted and the act would be liable to be punished with rigorous imprisonment for a term which may extend upto 10 years with fine of ₹1 lac under Section 25-A of the Act.

(158) To say it differently, the misuse of a 'controlled substance' whether Ephedrine or Pseudoephedrine or their salts, is not a mere violation of the conditions of licence for which action would be taken by the State Drug Controller or the Narcotics Control Bureau. Such violation also constitutes an independent offence under the NDPS Act and is severely punishable.

(159) The plea taken by the manufacturers/proprietors of pharmaceutical units that the alleged violation of the terms and conditions of their licences would not clothe the police to slap a case under the NDPS Act thus carries no weight and deserves to be rejected.

(160) Similarly, the objection against the jurisdictional competence of Punjab Police in registering cases against proprietors of pharmaceutical units located in State of Himachal Pradesh *prima facie* cannot be entertained at this stage. If the trails of the crime originating from those units were traced out in the Punjab territory also, it would be totally farcical to contend that Punjab Police cannot step in or take action against the suspects.

(161) The very genesis of these drug scam cases lies in the police version that the proprietors or managers of the pharmaceutical units are involved in the illicit sale of their stocks of controlled substances like Ephedrine or Pseudoephedrine which have been supplied to them at concessional rates for manufacturing drugs but have been siphoned to the drug mafia for a hefty price. Both the controlled substances are stated to be the major constituents for manufacturing Methamphetamine (ICE).

(162) Whether the proprietors of pharmaceutical units have violated the conditions of their licence, or whether they lawfully consumed the controlled substances supplied to them for manufacturing the drugs, or whether their stock registers or sale

records including invoices etc. are genuine and valid, or whether such sales have been shown in favour of fake or non-existent entries and the controlled substances taken against their licences have gone into the hands of underworld – are all questions of facts which can only be adjudicated by a Judicial Court on consideration of the prosecution and defence evidence. It will be against all the canons of criminal jurisprudence to entrust such power to an investigating agency whether controlled by State or Central Government.

(163) Similarly, the over-all impact of the allegations made by Jagjit Singh Chahal *re.* (a) the place and manner of his arrest; (b) how and when the raid was conducted; (c) whether or not the Drug Controlling Authority and Police of State of Himachal Pradesh were associated by the Punjab police; and (d) whether the contraband allegedly recovered from their vehicles or factories have been planted, on the final pronouncement to be made by the Special Court, is a premature and contentious issue and cannot be pre-judged through re-investigation.

(164) It may be observed at this stage that one of the Pharmaceutical units of Jagjit Singh Chahal i.e. MBP Pharmaceutical Private Limited approached Hon'ble High Court of Himachal Pradesh in CWP No.3496 of 2014, questioning the legality of searches and seizures conducted by Punjab Police in its premises on 15<sup>th</sup> & 16<sup>th</sup> November, 2013, on the ground that the due procedure and mandate of law was not followed and its action was "without any jurisdiction". The High Court dismissed the writ petition vide order dated 20<sup>th</sup> August, 2014 being premature but only after observing that "*in the given circumstances, prima facie, it appears that the writ petition filed before this Court is an afterthought, just to hamper the investigation, which has been conducted by the Punjab Police.*"

(165) So far as the common grounds taken by most of the petitioners are concerned, it may be seen that they have attempted to cause a dent and create doubt in the prosecution's theory. They have made whole-hearted attempts to falsify the manner in which illicit drugs are reported to have been recovered. We do not deem it necessary to express any opinion in this regard for if the police version is found meritless by the Special Court, the prosecution case is bound to collapse.

(166) The petitioners in these cases thus want this Court to accept their oral or documentary evidence and give a verdict of their innocence after discarding the police version. Alternatively, they have suggested that the Court direct the CBI or any other independent agency to appreciate the merits of their evidence and proof of varied nature and discharge them from the criminal proceedings. We are afraid such an exercise certainly does not fall within the purview of the *dictum* in **State of West Bengal** (supra).

(167) Likewise, the claim of Jagdish Singh @ Bhola that his distinguished career as a sportsman is the root cause of his false implication is actually his defence plea to be proved before the Special Court.

(168) It is true that the filing of charge-sheet under Section 173 CrPC or framing of charges alone will not divest a Constitutional Court from directing re-investigation by another agency. This Court, however, cannot overlook the fact that on completion of investigation, the police has already submitted charge-sheets in all the cases subject to any supplementary report which may be submitted under Section 173(8) CrPC. In some of the cases, prosecution has already started its evidence. In the absence of any exceptional circumstances where this Court must intervene and do complete justice, we are satisfied that the appropriate recourse at this stage is to follow the dictum in (i)

**Disha** and (ii) **Sudipta Lenka** cases (supra) and hold that the power to refer a case for further investigation to an independent agency like CBI, ought not to be invoked after filing of the charge-sheet by the local police.

(169) In view of the above discussion, it is held that even as a cumulative effect of all the contentions raised on their behalf, the petitioners have failed to make out a case within those exceptional circumstances where this Court either, in exercise of its writ jurisdiction under Article 226 of the Constitution or inherent powers under Section 482 CrPC, can entrust these matters for a fresh or re-investigation to CBI or any other agency. These petitions are resultantly dismissed and the interim orders staying the trial Court proceedings are vacated and the Special Courts are directed to proceed with the cases in accordance with law subject to the effect of directions issued hereinafter.

(170) It goes without saying that the observations made hereinabove are only with reference to the question whether the cases deserve to be re-investigated by any other agency and the same shall not be taken as an expression of views on the merits of the allegations or counter-allegations which shall be independently determined by the Special Courts, in accordance with law and uninfluenced of these observations.

(171) Having held that, we cannot refrain ourselves from observing that though the petitioners have failed to make out a case for fresh or re-investigation by an independent agency, nonetheless it stands fairly exposed that –

- (i) The investigation carried out by the Punjab Police lacks scientific methodology or modern techniques necessary to nail the professional criminals like drug lords;

- (ii) There has been an apparent lack of commitment, deliberate or otherwise, in securing impeachable or impeccable evidence of independent nature;
- (iii) There are some loopholes and gaps, whether left deliberately or otherwise;
- (iv) There appears to be an indifferent and lackluster attitude on the part of senior police officers who might be comparatively well-versed with the science of narcotic drugs or psychotropic substances etc.;
- (v) There is an unexplained silence on the efforts, if any, made after the year 2013-14, to nab the organized drug traffickeers;
- (vi) No evaluation of legal, logical and long-lasting linkage between one case to another by way of credible or admissible evidence appears to have been made.

(172) It is indisputable that mere boasting of recovery or unearthing the drug-business worth rupees thousands crore or branding one or the other accused as the kingpin is neither the first nor the last nail in the coffin of this menace. The high rank police officers, preferably with specialized trainings ought to have taken the call as soon as the first case was detected. There could be better coordination not only between intra-district police but with the agencies of neighbouring States as well. Since the cases in hand have been given so much publicity as if illicit drugs would never surface in the State of Punjab, it is the duty of Police administration to ensure that every case is taken to its logical conclusion. Society has a fundamental human right to live free from drugs. The failure of the prosecution agency to lead credible evidence so as to bring the guilt home in every case would lead to most agonizing disappointment and frustrations in a peace loving citizen. The upper echelons in the Police thus need to remind

themselves of their duties as the statesmen of law and order machinery.

(173) Since all the opportunities have not gone out of hand and necessary lacunae can still be filled in through supplementary reports, and false accusations (if any) can be dropped, we direct the State of Punjab, in the interest of complete justice, to constitute a Supervisory Team comprising the following three IPS Officers who shall within *three days* of the receipt of copy of this order take stock of the situation and examine the charge-sheets already filed in each of the subject FIRs:-

- (i) Shri Iswar Singh, IGP-cum-Director, State Narcotic Bureau;
- (ii) Smt. V.Neeraja, IPS, IGP-cum-Director, Vigilance Bureau, Punjab;
- (iii) Shri G. Nageswara Rao, IPS, IGP Crime.

The team shall re-visit the issues illustratively pointed out in para-171 of this order and take the necessary remedial steps.

(174) The District Police or the Investigating Officers related to the NDPS cases which are the subject-matter of these proceedings, are directed to produce complete records before the aforesaid team, which shall then identify the missing links, lack of proof or the evidence which could be credible but has not been collected or made part of the record for some obvious reasons. If the Supervisory Team finds any material which may assist the Special Courts to arrive at a just decision, the Supervisory Team, shall be at liberty to submit supplementary reports positively by 31<sup>st</sup> December, 2015. In this process of re-examination, re-consideration or further investigation, if the Supervisory Team is fully satisfied that not even a *prima facie* case is made out against any of the suspects against whom charge-sheet has since been

submitted, it shall be free to give such opinion in the supplementary report as directed above.

(175) Ordered accordingly.

**(Surya Kant)**  
**Judge**

**07.10.2015**  
*vishal shonkar*  
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**(P.B. Bajanthri)**  
**Judge**