

CRWP-1694-2015

Date of Decision : 03.05.2016

Jasbir Singh

.....Petitioner

versus

State of Punjab and others

....Respondent

**CORAM : HON'BLE MR. JUSTICE M.M.S. BEDI**

**Present:** Mr. Manmohan Singh Kang, Advocate  
for the petitioner.  
Mr. Jashanpreet Singh, AAG, Punjab.

**M.M.S. BEDI, JUDGE (ORAL)**

Petitioner Jasbir Singh has filed this petition under Article 226 of the Constitution of India for issuance of a writ in the nature of habeas corpus for release of drivers Shiv Kumar and Sarwan Ram, who had illegally been arrested being drivers of two trucks bearing No. RJ07 GA 7177 and RJ07 GA 6825, loaded with Pukhraj potato seed.

In the reply filed, it has been informed that an FIR No. 312 dated 24.11.2015 was registered at Police Station Sadar Nakodar, District Jalandhar in which the above said two trucks loaded with bags of Pukhraj potato seeds were taken in possession vide recovery memo dated 24.11.2015 of the same date. It is stated that regarding the said recoveries, entries were made in the DDR and that Shiv Kumar and Sarwan Ram were neither detained nor kept in illegal custody. However, an application was moved before the SDJM Nakodar on 26.11.2015 for auction of the potatoes as no one had claimed the said potatoes. After the auction, the money was deposited in the treasury.

With the assistance of State counsel, I have gone through

the police record. A perusal of the police file indicates that the FIR in this case was registered on the basis of Jalandhar Potato Growers Association alleging that the petitioner had been transporting seed potatoes under different markings by mentioning the number of Jalandhar Potato Growers Association and had been selling the same in Bengal after getting it from Agra. Pursuant to the said vague FIR, it appears that the trucks loaded with potatoes had been taken in possession and the recovered potatoes were sold on the ground that these were not being claimed by the owner. The scope of habeas corpus petition is to seek the release of persons who have been illegally detained. Since in the present case, the property of the petitioner is admittedly sold in auction under the orders of the Magistrate, it is open to the petitioner to enforce his legal rights against the complainant, recover the amount of sale of potatoes in auction or take any appropriate legal action or claim damages for the loss caused.

This petition is disposed of on account of the limited scope of the habeas corpus petition with above said observations, as it seems to have out lived its utility with the report of the warrant officer which is part of the record.

**(M.M.S. BEDI)**  
**JUDGE**

**03.05.2016**  
*Neha*