

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.675 of 2015 (O&M)
Date of decision: February 02, 2016

Balwinder Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.H.S.Dhindsa, Advocate
for the petitioner.

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this criminal writ petition under Article 226 of the Constitution of India praying for issuance of a writ in the nature of Habeas Corpus for the release of detenue Davinder Singh and it is further prayed that a warrant officer be appointed to conduct raid at Police Station Badhni Kalan or any other place at the instance of the petitioner for securing the immediate release of the detenue.

Notice of motion was issued in this case and warrant officer was also appointed.

In pursuance of notice of motion, learned State counsel appeared and the warrant officer gave the report dated 01.05.2015.

I have heard learned counsel for the petitioner as well as

learned State counsel and have gone through the record and the report of warrant officer.

In the report of warrant officer, it is stated that in compliance of the order dated 29.04.2015, he immediately along with the petitioner left for CIA Moga and reached there at 11.10 P.M. The outer gate of CIA Moga was closed at that time. He knocked the door and after disclosing his identity, the gate was opened. He along with petitioner rushed to the reporting room where night MHC Sarabjit Singh, No.334 was present there, to whom he disclosed his identity and demanded the roznamcha. He made entry of his arrival vide DDR No.24 dated 10.04.2015 at 11.10 P.M. It is further stated by the warrant officer that during search, one person namely Davinder Singh alleged detainee was found in the room of Investigating Officer ASI Pahara Singh. He enquired from ASI Pahara Singh regarding alleged detainee, who stated that Davinder Singh was arrested on that day i.e. 29.04.2015 at 4.00 P.M. in case FIR No.37 dated 29.04.2015 registered at Police Station Mehna under Section 22 of the NDPS Act but failed to show any entry in the roznamcha of CIA Moga regarding the arrest of the alleged detainee. However, he handed over a photocopy of the FIR to him (warrant officer), which was annexed with the report. The Investigating Officer also stated that the alleged detainee will be produced before the Illaqa Magistrate tomorrow. It is also in the report that the petitioner verbally stated before the warrant officer that as her son stands arrested by CIA staff, Moga on 29.04.2015 at 4.00 P.M. in case FIR No.37 dated 29.04.2015, so she

did not want to serve the notice to respondent-SHO Police Station, Badhni Kalan, District Moga.

After hearing learned counsel for the petitioner as well as learned State counsel and after going through the report of warrant officer, I find that till today no objection to the report of warrant officer has been filed. If the report of the warrant officer is taken as it is, then the alleged detainee was found to be arrested in case FIR No.37 dated 29.04.2015 under Section 22 of the NDPS Act and the FIR was registered at 4.00 P.M. The copy of the FIR is also annexed with the report which shows that the police party apprehended the accused-detainee on the spot and found 1 kg. of intoxicant powder and it is specifically mentioned in the FIR that the accused was apprehended at about 4.00 P.M. on 29.04.2015.

Keeping in view the report of the warrant officer, on which no objection has been raised and also the document i.e. FIR, which is annexed with the report and copy of which was given to the warrant officer at the spot and in view of the fact that as argued the detainee was produced before the Illaqa Magistrate on the next day and now the accused-detainee is on bail, no further action is required in the present criminal writ petition.

As regarding the argument of learned counsel for the petitioner that detainee was arrested much earlier to the arrest shown in the FIR and false case has been planted, I find that the petitioner can prove these facts by leading evidence before the trial Court. This petition being habeas corpus, no such finding can be given nor it is

required in this petition.

In view of the above discussion, as no further action is required in the present criminal writ petition, the same stands disposed of.

February 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE