

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

CRWP No.736 of 2016

Date of Decision: May 25, 2017

Sukhwinder Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Sarbjit Singh, Advocate
for the petitioner.

Mr. Gurvir Sidhu, AAG, Punjab.

FATEH DEEP SINGH, J.

This criminal writ petition by virtue of Article 226 of Constitution of India by petitioner Sukhwinder Kaur, who claims to be the mother of one Manpreet Singh @ Happy has alleged in her petition that the Police of Police Station Sadar, Amritsar on 15.05.2016 around 7.a.m had raided her house and ASI, Mohinder Singh along with others forcibly took away petitioner's son Manpreet Singh @ Happy along with his Activa Scooter. Thereafter, the respectables along with the petitioner had gone to Police Station, where they saw the Police physically assaulting her son and although nothing was recovered at the behest of her son and instead a case bearing No.79 dated 15.05.2016 under Sections 21,61,85 of NDPS Act read with Sections 379-B, 411 IPC was registered at Police Station, Sadar Amritsar against her son. Thereafter, Manpreet Singh @ Happy was produced before the Court and was sent to Police remand for two days from 16.5.2016. It is alleged that on 17.5.2016 the Police has either eliminated her son or done away with him as his whereabouts are not known and,

hence, the present petition has come about seeking writ in question.

The respondent-Police in its initial stand though denied the allegations of physical torture or illegal confinement but claimed that the FIR in question was got registered against the son of the petitioner as he was found having committed criminal offences as from him one stolen Aactiva Scooter and mobile phone were recovered on the basis of disclosure statement and claimed that on 17.5.2016 the said detenue had escaped from the Police custody regarding which FIR No.178 dated 17.05.2016 under Section 225-B IPC was registered with Police Station, A-Division, Amritsar and, thus, denied the allegations so levelled.

During the course of hearing, subsequently Police filed supplementary reply by way of an affidavit of Commissioner of Police, Amritsar, wherein, it was contended that the son of the petitioner namely Manpreet Singh @ Happy was at the time of filing of the present petition was lodged in Central Jail, Durg, Chhatisgarh having been arrested in some other FIR and, thereafter, production warrants of the said person was obtained from the Court of JMIC, Amritsar and it was informed by the authorities that the said person was wanted and had been arrested in cases detailed as below:-

1. DDR No.01 dated 05.02.2017 under Section 41(1+4) Cr.P.C, and Sections 392, 414 IPC at Police Station Old Bhilai, District Durg, Chhatisgarh.
2. FIR No.25 dated 24.1.2017 under Sections 392,414 IPC registered at Police Station Old Bhilai, District Durg, Chhatisgarh.
3. FIR No.454/16 dated 24.1.2017 under Sections 392, 34 IPC registered at Police Station Old Bhilai, District Durg, Chhatisgarh.
4. FIR No.269/16 dated 17.12.2016 under Sections 392 IPC registered at Police Station Amaanaka Raipur,

District Raipur , Chhatisgarh.

5. FIR No.364 dated 17.12.2016 under Sections 392 IPC registered at Police Station Ganj, District Raipur , Chhatisgarh.

It was further reiterated that the documentary proofs as to the details of the visitors with dates and relationship reflected in the visitors register of the jail in question and, thus, claimed that in fact the son of the petitioner was a notorious criminal, who had escaped from the custody of Police of Amritsar and has gone to Chhatisgarh, where he had committed several crimes including robbery in Districts of Durg and Raipur and, thus, was facing the law. The respondent side has taken the plea that the petitioner has misled the Court and on the false pretext filed the present petition in spite of the fact that her some family members are from the Police force and sought dismissal of the same.

Upon hearing learned counsel for the parties and perusing the records, no doubt, Article 21 of Constitution of India with a view to bestow upon citizens of this Country certain fundamental rights enumerated in Chapter III of the Constitution to safeguard primarily the life and personal liberty of its citizens and to provide them equality and it is in view of the same Article 226 of Constitution of India has been created as an immediate and imminent recourse to justice from Constitutional Courts. Article 226 is enshrined with a view of empowering the High Court to issue certain writs notwithstanding anything contained in Article 32 of the Constitution and under which by exercising powers the Courts can issue orders or directions to any Government authority or person as it may deem expedient in the interest of justice but the Courts have to be conscious enough to be aware and weary that the powers are not intended to be

misused for the purpose of perpetuating illegalities, irregularities or improprieties. The Courts being sentinels of such rights are supposed to guard the same.

Learned counsel for the petitioner though has sought to argue with much vehemence the brutality of the Police and circumvention of law by them but could not controvert the documentary evidence placed with the affidavit of the Commissioner of Police, Amritsar on records which clearly elaborates that the son of the petitioner has a history of criminal records in other States as well and is a desperado and the present petition apparently has been filed to thwart further Police action which might come up upon his escape from the Police custody and consequences of such a conduct of this desperado criminal. In fact, this Court is totally convinced that the petition is malafide, motivated with a oblique purpose to take undue advantage of this provision of law and has not only misled the Court based on knowingly and intentionally false and frivolous averments supported by false affidavit but is totally devoid of any such merits and having wasted valuable time of the Court for having misused the process of law needs to be dismissed with exemplary cost of Rs.2 lacs which shall be recovered from the petitioner by way of arrears of land revenue and if she does not deposit the same within a period of one month from the date of receipt of copy of this order, she will be entitled to pay interest @ 7% per annum from the date of filing of the petition till realization of the amount. Disposed off.

(FATEH DEEP SINGH)
JUDGE

May 25, 2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No