

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

CRM-M No.48902 of 2017 (O&M)
Date of decision: 09.05.2018

Paramjit Kumar @ Paramjit Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. B.S. Toor, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(Oral)

By invoking Section 482 of the Code of Criminal Procedure, the petitioner has prayed for quashing of FIR No.128 dated 29.09.2016 for offence punishable under Section 27 of the Narcotic Drugs and Psychotropic Substances Act (for short 'the Act'), registered at Police Station Garhshankar, District Hoshiarpur and subsequent proceedings arising therefrom.

In the present case, the FIR was registered on the statement of SI Harbans Lal, No.1014. Affidavit of SI Harbans Lal No.1014 filed by learned State counsel is taken on record.

Before proceeding further, this court would like to give brief resume to the prosecution case:-

On 29.09.2016, one Smt. Gurbax Kaur @ Baksho was arrested while having some powder of white colour. The Investigating Officer suspected that this powder contains psychotropic substance. Therefore, she was booked under Section 27 of the Act vide FIR No.128 dated 29.09.2016.

It is further case of the prosecution that said Smt. Gurbax Kaur while in custody had suffered confessional statement (Annexure R-1/T) on 02.10.2016 which is reproduced as under:-

“Paramjit Singh Head Constable whose phone No.9876308766 is well to her for the past 5/6 years and we talked to each other daily and many times. Paramjit Singh gave her supply of intoxicant substance and she sell the same and he used to take share of the earning from the earning of the intoxicant substances. He consumes poppy husk and she gave poppy husk. The recording of phone of which was run before her and this is the voice of me and Paramjit Singh. In this recording Paramjit Singh is asking her to give poppy husk and told to handle the scale. My phone no. is 9915448963 and she often talked to him on this sim. Earlier she used to sell poppy husk and she is selling intoxicant substances. This confession she is getting recorded herself and she is not suffering this confessional statement under any pressure and she is suffering herself.”

In consequence thereof, petitioner, who was working as a Head Constable in the Punjab Police was arrested on 02.10.2016 vide memo of arrest and information dated 02.10.2016 (Annexure R-2/T) and continuously remained in custody. However, the sample extracted from the bulk powder was sent to chemical examiner. On analysis, it was reported that it contained only Paracetamol. This report was submitted on 30.03.2017 vide report No.2521/2016/Toxi/FSL/Pb. dated 19.12.2016.

It may be contended that now the investigating agency is intending to submit a cancellation report.

I have heard learned counsel for the parties and have gone through the record.

The arrest of a person on a suspicion certainly curtails his rights and liberties. When a white powder was recovered from Smt. Gurbax Kaur,

it was the duty of the prosecution to discharge her custody or release her on interim bail uptill receipt of the chemical examiner report. She remained in custody without any cause.

The confessional statement (Annexure R-1/T) is not admissible into evidence being confession before the police. Even in this confessional statement, Smt. Gurbax Kaur has simply stated that petitioner was well known to her for the last 5/6 years and both were on speaking terms. She narrated past incident when petitioner gave her some intoxicant substance and both of them have shared the earnings emanating from the sale of the same. She further stated that the petitioner used to consume poppy husk and she had been serving him with the poppy husk. She has nowhere stated that if the recovered powder (which in fact was found to be paracetamol) was supplied to her by the petitioner. Thus, the arrest of the petitioner was highly illegal, unlawful and unwarranted. Even if she confessed regarding receiving the powder from the petitioner even then it was the duty of the investigating officer to wait for the result of the Forensic Science Laboratory. Thus, the arrest of the petitioner was highly illegal and unlawful.

For the foregoing reasons, the petition is allowed, FIR No.128 dated 29.09.2016 for offence punishable under Section 27 of the Act, registered at Police Station Garhshankar, District Hoshiarpur and proceedings emanating therefrom stand quashed qua the petitioner.

As the petitioner has been illegally detained by SI Harbans Lal, who is now present in the court, this court is of the opinion that he must pay some compensation to the petitioner.

Keeping in view the above facts, this court deems it appropriate that SI Harbans Lal shall pay Rs.25,000/- through bank draft as

compensation to the petitioner within one month and on his failure to do so, said amount be deducted from his salary and be disbursed to the petitioner.

However, the petitioner shall at liberty to seek compensation from the State in accordance with law.

May 09, 2018
m. sharma

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no