248 **IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

CRWP-310-2018
Decided on:-September 14th, 2018.

JASPAL KAUR

.....Petitioner.

Versus

STATE OF PUNJAB AND ORS

.....Respondents.

CORAM: ***HON'BLE MR. JUSTICE HARI PAL VERMA.***

*****

Present: None for the petitioner.

Mr. Tanvir Joshi, AAG, Punjab.

-*-

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Article 226 of the Constitution of India is for issuance of a writ in the nature of Habeas Corpus for appointment of a Warrant Officer so as to get detenue namely Matwal Singh S/o Nirmal Singh released from the illegal custody of the respondents No. 3 to 7.

Vide order dated 24.03.2018, while issuing notice of motion to respondents No. 3 to 7 this Court had issued a direction to the registry to appoint a Warrant Officer to visit the place(s) as pointed out by the petitioner including the Police Station South-II, Moga, District Moga to get the detenue released immediately, if found to be illegal detained.

Pursuant to the aforesaid orders, the Warrant Officer raided the Police Station South-II, Moga, District Moga on 24.03.2018 at about 10.16 P.M. The main-gate of Police Station South-II, Moga, District Moga was lying open and santri was not present. Warrant Officer entered the room of

Tarun Sahni
2018.09.19 10:13
I attest to the accuracy and
integrity of this document

the MHC where Hartej Singh was present. The detenue Matwal Singh was also there. When the Warrant Officer asked the MHC as to why detenue was kept in the police station, the MHC official could not give a satisfactory answer and told the Warrant Officer that there is no case/complaint against the detenue.

Learned State counsel has already filed reply by way of affidavit of Kesar Singh, PPS, Deputy Superintendent of Police, (City), Moga, District Moga on behalf of respondents No. 1 and 2. He has drawn attention of this Court to Paragraph-3 of the present reply which is as under:-

> "That it is also submitted here that on 24.03.2018 at about 10:16 P.M. Naresh Chand, Warrant Officer appointed by this Hon'ble Court has raided the premises of Police Station City South Moga and at that time main gate of the police station was lying open. In the mean time by taking illegal benefit of opening of gate of Police Station said Matwal Singh had also entered in the police Station City South Moga and in this regard Warrant Officer has also entered a Rapat no.22 in the DDR Register of Police Station. It is also submitted here that from the version of Rapat No.22 itself clear that said Matwal Singh was neither confined in any room etc of police station nor he was got seated by any one. Warrants Officer himself has mentioned in the rapat that "Only one police personal is sitting in the room. On enquiry he told his name Harjeet Singh Night MHC. On reaching the police station petitioner pointed towards Matwal

Tarun Sahni
2018.09.19 10:13
I attest to the accuracy and
integrity of this document

Singh (alleged detenue)." Which clearly shows that said Matwal Singh was freely standing near the main gate of police station of City South Moga. From this fact it is proved that Matwal Singh himself has entered into the premises of Police Station South Moga just few seconds after reaching of warrants officer there, under deep planning. Copy of DDR is attached herewith as Annexure R-2".

Learned State counsel has argued that there is an FIR No. 60 dated 04.03.2018 under Section 22 of the NDPS Act registered against one Suraj Kumar at Police Station City South Moga and it is during interrogation of said Suraj Kumar, has disclosed that he (Suraj Kumar) had purchased the said intoxicant powder from the alleged detenue. He is an accused in the aforesaid FIR.

In view of the above no further orders are required to be passed in the present petition as the detenue is an accused in the F.I.R. Accordingly the present petition is dismissed.

(HARI PAL VERMA)
JUDGE

September 14th 2018
tarun

Whether speaking/reasoned: Yes

Whether Reportable: No

Tarun Sahni
2018.09.19 10:13
I attest to the accuracy and
integrity of this document