

Sr. No.230

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

**CWP No.8535 of 2013 (O&M)
Date of Decision: 20.12.2018**

Simranjit Singh Mann

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. G.S.Sidhu, Advocate,
for the petitioner.

Mr. Hittan Nehra, Additional A.G., Punjab.

Mr. J.S.Ghuman, Advocate,
for respondent No.3.

ARUN MONGA, J.(ORAL)

Present writ petition has been filed seeking issuance of a writ in the nature of mandamus ordering appropriate action against the respondents for alleged violation of fundamental rights of the petitioner guaranteed under Articles 14, 19, 21 and 22 of the Constitution of India.

2. Petitioner is an Ex-IPS Officer and was elected to Lok Sabha in 1989 from Tarn Taran Lok Sabha Constituency and thereafter was again elected to Lok Sabha in 1999 from Sangrur Lok Sabha Constituency. The petitioner has stated that he is the President of Shiromani Akali Dal (Amritsar) registered political party with Election Commission of India and it is thus his own case that he is a political activist and a leader of a registered political

party.

3. Averments made in the petition herein are that the petitioner was illegally detained on 28.03.2012 by the ASI posted at Police Station Sangat, District Bathinda under Section 107/151 Cr.P.C., which the petitioner alleges was in violation of the mandate of the decision rendered by the ***Hon'ble Supreme Court of India in case titled as D.K.Basu Vs. State of West Bengal, AIR 1997 (SC) 610*** as also in the case ***titled as Joginder Kumar Vs. State of U.P. AIR 1994 (Supreme Court) 1349.***

4. Learned counsel for the petitioner contends that the Hon'ble Apex Court has laid down the guidelines in respect of rights of the arrested persons and the said rights were violated by the arresting police officials. He also contends that the provisions of Volume III Chapter 3 of the Orders and Rules as framed by this Court dealing with Security Cases Proceedings were also violated. He contends that while petitioner was under arrest on 28.03.2012 he was illegally sent to Jail despite the fact that when he was produced before the Court of S.D.M. Bathinda, he was granted bail. Not only that, he further alleges that while he was still in judicial custody, another *kalendra* (Police report) was registered against him by another Police Station i.e. Civil Lines, Bathinda which clearly shows that a false case against the petitioner was being illegally foisted.

5. Per contra learned counsel for the respondents states that on 28.03.2012, the police throughout was put on high alert as some radical organizations and individuals were bent upon

disturbing the peace, tranquility and social harmony in the State by creating unrest on the pretext of impending hanging of Balwant Singh Rajaona in execution of the death sentence awarded to him. The petitioner along with some other radical, religious and political organizations was planning to start protest march from Sri Damdama Sahib Talwandi Sabo. He states that based on the intelligence inputs the State police had reasonable apprehension that the said protest march would lead to inflammatory speeches to be delivered by the leaders of the participating organizations associated with the petitioner. He contends that the same would have vitiated the peaceful and harmonious atmosphere in the State endangering the lives and properties of the people.

6. Learned counsel for the respondents states that respondent No.8-ASI, Police Station Sangat, District Bathinda along with his superior i.e. Station House Officer were present at a *Naka* (Police Barricade) at a bus stand when the petitioner along with members of his party arrived in preparation for participating in the special proposed protest march. The police party present at the *Naka* headed by the SHO requested the petitioner and his companions not to hold such a protest march and refrain from making inflammatory public speeches therein. However, the petitioner and his companions instead of paying heed to the police party started raising slogans right there itself. The said inflammatory slogans were against the State as well as Central Government. The petitioner openly proclaimed that he did not care about the laws of the country and makes his own laws and

nothing can desist him from participating in the protest march and/or making inflammatory speeches to the general public.

7. Learned counsel for the respondents contends that owing to the adamancy shown by the petitioner, the police officials were compelled to make a preventive detention of the petitioner as otherwise the situation would have deteriorated resulting in disruption of law and order.

8. He contends that the arrest of the petitioner was merely preventive in order to prevent the apprehended breach of peace and disturbance of public tranquility.

9. The petitioner and his companions arrested under Section 107/151 Cr.P.C. were produced before the Executive Magistrate within 24 hours on 29.03.2012 in accordance with law. He states that a notice under Section 111 Cr. P.C. was also given and read over to the petitioner and his companions. In view of the fact that when they were handed over a copy for their signatures they refused to sign the same. Executive Magistrate upon production of the petitioner and his companions asked them to submit a surety bonds of a sum of Rs.10,000/- each which was declined to be submitted by the petitioner. In view thereof ,as per the orders of the Executive Magistrate, the petitioner was remanded to judicial custody in accordance with law.

10. As regards the allegation of the petitioner that while he was in judicial custody another *Kalendra* was illegally prepared against him under Section 107/151 Cr.P.C., he points out that reply filed by respondent No. 3 i.e. S.D.M. Bathinda, para 12 thereof

clearly states that the petitioner was released from Jail on 29.03.2012 later on as per the release warrant Annexure P-3.

11. On a query posed by the Court, learned counsel for the State, upon instructions from ASI Baldev Singh, who is present in Court, states that the petitioner was released from judicial custody on 29.03.2012 itself when he furnished the surety bonds as directed by the Executive Magistrate. In view thereof, he was released from custody forthwith.

12. In the reply filed by respondent No.3 S.D.M. Bathinda, it is stated that after release from Jail on 29.03.2012, the petitioner once again was arrested by police authorities from the main gate of the Central Jail itself as right outside the Jail some of the volatile supporters of the petitioner were present at the gate of the jail. It was apprehended by the police authorities that if the petitioner was allowed to move freely then he would again disturb the law and order. The petitioner's plan of protest march against the hanging of Balwant Singh Rajoana led to another *Kalendra* and the arrest of the petitioner. Pursuant thereto he was produced before him by the arresting police official. The reply of the S.D.M. states that upon the petitioner being produced before him he was sent to judicial custody after setting the conditions for bail as per Annexure R-1.

13. Having gone through the rival contentions in the pleadings of both the parties as also the arguments of learned counsel as noted above, I find that the present petition lacks any substance or merit.

14. It is the conceded case of the petitioner that he is a political activist and also leader of the political party Shiromani Akali Dal (Amritsar). During the course of his political activities, it is but natural that protest marches are held by him in order to sway the general public opinion in his favour. However, in the present case, the nature of protest march that was proposed to be held by the petitioner and participation of his supporters therein as also the proposed inflammatory speeches by no stretch of imagination can be construed as simple political rallies.

15. It is not the case of the petitioner that he and his supporters were not protesting against the sentence of hanging awarded to a proclaimed terrorist who was held guilty for assassination of the then Hon'ble Chief Minister of the State Sh. Beant Singh. It seems to be the case where petitioner himself intended to stage political martyrdom by offering himself for arrest and chose to go to jail. Even when the Executive Magistrate had directed him to furnish a security bond, he declined to do so and preferred to be remanded in judicial custody. Having thus once attained the hallow of martyrdom by going to jail he immediately offered the said surety bond in the Jail itself instead of offering it at the time of passing of the orders in the Court. His conduct post release from the Jail by furnishing the bail bond further reflects that the apprehension of the police officials based on the intelligence inputs were well founded as he immediately started indulging in inflammatory speeches and protest march against the hanging of the proclaimed terrorist which led to the registration of

another *Kalendra*.

16. In view of the above observations, there is no force in the argument of learned counsel for the petitioner that second *Kalendra* was illegally prepared against the petitioner while he was still in police custody as he could not have been involved in another case i.e. Section 107/151 being already in custody or even otherwise his contention that he was illegally sent to Jail lacks any merits as he himself declined to furnish the surety bond at the time of offer of bail.

17. In view of the above, the present writ petition is dismissed.

18. No order as to costs.

(ARUN MONGA)
JUDGE

20.12.2018

vandana (3)

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No