

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

**CRM-M No. 3019 of 2018
Date of Decision:-15.01.2019**

Nirvail Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Abhishek Kaushik, Advocate for
Mr. Vipul Jindal, Advocate
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab.

MANOJ BAJAJ J.(Oral)

Petitioners have filed this petition under Section 482 Cr.P.C. for issuance of directions for directing respondents No.4 to 7 not to harass and humiliate the petitioners by exercise of their police powers in an arbitrary manner.

It is the case of the petitioners that they are related to each other being part of the joint family and are residents of VPO Dhun Dhaewala, Tehsil and District Tarn Taran. According to the petitioners, on 18.11.2017, police officials had come to their residence looking for Manjit Singh and had taken other three persons namely, Mahabir Singh, Sukhbir

Singh and Gurdeep Singh alongwith them. It is averred that later on they came to know that FIR No.335 dated 18.11.2017 stands registered against four accused persons under NDPS Act. It is further alleged that the entire action is being taken at the behest of MLA Ramanjit Singh Sikky, who later on arrayed as respondent No.8 in this petition. It is pleaded that time and again the police is raiding their house and in this regard a legal notice on behalf of petitioners was served upon the official respondents.

In response to the petition, reply by way of affidavit of Des Raj, PPS, Assistant Inspector General of Police, Counter Intelligence, Ferozepur on behalf of respondents No.1 to 3 and 5 to 6 has been filed, wherein the details of the cases, registered against the petitioners has been given. As per reply, petitioner No.1-Nirvail Singh is involved in 03 FIRs i.e. (i) FIR No.76 dated 13.8.2015, under Sections 15/18/21, 22/61/85 of NDPS Act and Section 25/54/59 of Arms Act as well as under Sections 411 and 414 IPC, registered at Police Station Chohla Sahib, District Tarn Taran (trial of this FIR is going on); (ii) FIR No.68 dated 05.6.2011, under Sections 420 and 120-B IPC, registered at Police Station Bhikhiwind, District Tarn Taran (convicted in this FIR); and (iii) FIR No.5 (2012) P & I Seizure of Heroin/23/Agra/04 (convicted in this case). Petitioner No.3-Shamsher singh is stated to be involved in 02 FIRs i.e. (i) FIR No.70 dated 03.7.2017, under Section 21/61/85 of NDPS Act, registered at Police Station Chohla Sahib, District Tarn Taran (trial of which is going on); and FIR No.95 dated 18.6.2014, under Section 21/61/85 of NDPS Act, registered at Police Station Doraha, District Ludhiana (convicted in this

FIR). Besides, it is also highlighted that FIR No.335 dated 18.11.2017, registered at Police Station Sadar, Ferozepur stands registered against accused Sukhbir Singh, who is son of Nirvail Singh (petitioner No.1 herein). Against Mahabir, who is another son of petitioner Nirvail Singh, there are three FIRs registered.

Learned State counsel has also intimated the Court that out of four accused persons, three of them have been arrested and accused Manjit Singh is yet to be arrested.

It is also revealed in the reply that accused Mahavir Singh @ Tota is having connections across the border and collects contraband from near the barbed wire fencing and further used to distribute the same to the other smugglers in India. On 18.11.2017, a secret information in this regard was received and FIR No.335 dated 18.11.2017 was registered. Para 5 of the reply reads as under :-

“5. That on the basis of this information the raiding party headed by Narinderpal Singh, then AIG (Respondent No.4) and BSF officers held a naka at the disclosed place to apprehend the smugglers mentioned in the ruqa. During the nakabandi, the police party themselves, in the meanwhile the smuggler from the Pakistan side tried to cross the contraband into Indian Territory by putting the same in a plastic pipe through the barbed fencing. On noticing this smuggling, BSF Officials started firing to apprehend the smugglers. The Pakistani smugglers from the other side manage to escape by throwing the contraband into Indian Territory by putting the same in the plastic pipe through barbed

fencing. But the police and BSF party apprehended Mahavir Singh @ Tota s/o Nirvair Singh, Sukhvir Singh @ Soni s/o Nirvair Singh and Gurdeep Singh s/o Jarnail Singh mentioned above, however Manjit Singh @ Manna s/o Jarnail Singh mentioned above managed to escape. That the police and BSF officials also recovered contraband thrown by the Pakistani Smugglers in the territory of India. It was found 22 packets of heroin weighing 1 Kg each, 1 Pistol 9 mm made in Turkey, 11 live cartridges 9 mm and one Pakistani Sim. These were taken into possession by the Investigation Officer (respondent No.4) vide recovery memo as per provisions of NDPS Act.”

In view of the stand of the State, it is evident that majority of the petitioners and their sons are involved in multiple criminal cases and since one of the main accused, namely, Manjit Singh @ Manna is still at large, the police is supposed to visit the probable places where the said accused can be expected to be present and therefore, it cannot be at all construed that visit of the police officials amounts to harassment to the petitioners.

In view of the above, no case for issuance of directions to the respondents is made out.

The petition is dismissed.

January 15, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No