

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-771-2018 (O&M)

Date of Decision:-9.1.2019

Hardeep Singh @ Dimpy Dhillon and others ... Petitioners

Versus

State of Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sangram S. Saron, Advocate with
Ms. Shubreet Kaur, Advocate for the petitioners.

Ms. Simranjeet Kaur, AAG, Punjab.

GURVINDER SINGH GILL, J.(Oral)

Petitioners Hardeep Singh @ Dimpy Dhillon, Sandeep Singh @ Sunny Dhillon and Jagtar Singh Dhaliwal through their next friend Simarjeet Singh have approached this Court seeking issuance of a writ in the nature of habeas corpus seeking their release while alleging that they have been illegally detained by the police.

Vide order dated 20.9.2018, a Co-ordinate Bench of this Court had ordered for appointment of a Warrant Officer so as to locate the detenues.

Pursuant to the aforesaid order, a Warrant Officer was appointed, who visited the places nominated by cousin of the detenues and submitted his report dated 25.9.2018. The relevant extract from the said report reads as follows:-

“.....As desired by the petitioner the undersigned alongwith Sh. Mandeep Singh S/o Sh. Sukhraj Singh resident of Rama Mandi, District Bathinda, who is cousin brother of detenues namely, Sh. Hardeep Singh @ Dimpy Dhillon, Sh. Sandeep Singh @ Sunny Dhillon and Sh. Jagtar Singh Dhaliwal, reached at Police Station Kotbhai, District Shri Muktsar Sahib on 21.09.2018 at about 01:00 A.M., with regard to releasing the above said detenues. Sh. Daljit Singh, Sub-Inspector (Incharge), Sh. Balwinder Singh, ASI, Sh. Buta Singh, Head Constable, Sh. Amninder Singh (Night Munshi), Constable, Sh. Jaspal Singh, PHG (Guard) and Sh. Gurpreet Singh, Constable (CCTNS Operator) were present there, when we reached at the Police Station Kotbhai. Thereafter, the matter was discussed with Sh. Daljit Singh, Sub-Inspector and he had informed that Sh. Hardeep Singh @ Dimpy Dhillon, Sh. Sandeep Singh @ Sunny Dhillon and Sh. Jagtar Singh Dhaliwal, detenues were arrested on 20.09.2018 at 8:00 A.M. from Husnar Chowk, Gidderbaha and sent to Hawalat at Police Station Kotbhai in FIR No.105 dated 20.09.2018 (Annexure ‘R-1’), under Section 353, 186, 188 IPC regarding Election under Section 134, 131, 135, 135A, 171, The Representation of People Act, 1951 and 1988. On 20.09.2018, they were produced in the concerned Court of JMIC/GDB and they were sent to judicial custody for 14 days under the orders of Hon’ble Court. The DDR was registered vide General Diary No.003 on 21.09.2018 at 02:08 hrs (Annexure ‘R-2’)

..... In this connection, it is submitted that Sh. Daljit Singh, Sub-Inspector had also informed that a separate FIR has also been registered against the above said detenues at Police Station Gidderbaha, District Shri Muktsar Sahib. Thereafter, as desired by Sh. Mandeep Singh S/o Sh. Sukhraj Singh resident of Rama Mandi, District Bathinda, we reached at Police Station Gidderbaha, District Shri Muktsar Sahib on 21.09.2018 at about 5:00 A.M. At the time of my visit Sh. Chamkaur Singh, Head Constable (Night Munshi) was present in the Police Station and he informed that FIR No.150 dated 20.09.2018 (Annexure ‘R-6’) under Section 353, 186, 341, 148, 149 IPC 135, 135A

Representation of People Act, 1951 and 1988 has registered against Sh. Hardeep Singh @ Dimpy Dhillon, Sh. Sandeep Singh @ Sunny Dhillon and Sh. Jagtar Singh Dhaliwal at Police Station Gidderbaha and this FIR has registered against the complaint dated 19.09.2018 of Sub-Divisional Magistrate-cum-Returning Officer, General Election Panchayat Samiti, Gidderbaha..... ”

From perusal of the aforesaid report, it transpires that the petitioners cannot be said to be illegally detained but have been detained consequent upon FIR No.105 dated 20.9.2018 for offences under Sections 353, 186 and 188 of Indian Penal Code, 1860 having been registered against them.

The learned counsel for the petitioners has, however, vehemently argued that infact it is a case where the petitioners had been detained on 19.9.2018 itself and it was only after the petitioners approached this Court through their next friend namely Simarjeet Singh that the police in order to cover-up their mis-deeds lodged a false FIR against the petitioners.

The learned counsel has submitted that infact the FIR in question was lodged on 20.9.2018 at 01.50 hrs. pursuant to receipt of information at 01.05 hrs., whereas the habeas corpus petition had already been filed on 19.9.2018 at 09:00 PM, which clearly indicates that the FIR was lodged by the police after the police came to know about filing of petition in this Court. The learned counsel for the petitioners has further submitted that in these circumstances, some inquiry ought to be conducted and in this context has cited a judgment of Hon'ble the Supreme Court reported as Joginder Kumar Versus State of U.P. and others 1991(4) SCC.

I have considered the aforesaid submissions and have also perused the cited judgment. A perusal of the cited judgment shows that in the

cited case there was some material suggestive of illegal detention for five days of the detenu, who was an advocate and it was in these circumstances that Hon'ble the Supreme Court directed for holding of an inquiry. In the cited case the police had admitted having called the detenu to the police station for making some inquiries. However, in the present case at this stage, it is difficult to make any observation regarding the illegal detention.

In view of the report of Warrant Officer and keeping in view the fact that the petitioners are reported to have been detained pursuant to lodging of an FIR, the present petition, which is in the nature of "habeas corpus" petition, is dismissed. However, the petitioners would be at liberty to have recourse to law in respect of their alleged illegal detention.

No further order is required to be passed in this petition. The petition, as such, is dismissed.

9.1.2019

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No