

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 116

Criminal Miscellaneous No.M-41351 of 2019
Date of Decision: *October 29, 2019*

Sarabjit Kaur & another

..... PETITIONER(S)

VERSUS

State of Punjab & another

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

. . .

PRESENT: - Mr. Veneet Sharma, Advocate, for the petitioners.

Mr. B.S. Sewak, Additional Advocate General, Punjab.

Mr. Sunish Bindlish, Senior Standing Counsel, for
respondent No.4.

Mr. S.S. Sandhu, Advocate for NIA.

. . .

Amol Rattan Singh, J (Oral)

Pursuant to the orders of this Court dated 01.10.2019 and 15.10.2019, an affidavit of petitioner No.1 in this petition, has been filed in Court today (a copy of which has been given to Mr. Bindlish and Mr. S.S. Sandhu, Advocates), by learned counsel for the petitioner, eventually giving therein that house of the deponent as has been sealed by the respondents is House No.282, New Pal Avenue, Ram Tirath Road, Amritsar.

An affidavit of Mr. Dipak Kumar Gupta, Commissioner of Customs, has also been filed on behalf of respondent No.4 (a copy of which has been given to learned counsel for the petitioners).

A perusal thereof shows that in paragraph 5 thereof it has been stated that House No.282, New Pal Avenue, Ram Tirath Road, Amritsar, was searched on 13.07.2019 by the officials of the Customs Department, in the presence of independent witnesses, with none present in the premises (with no occupant/owner available in the said premises).

Upon query to Mr. Sandhu, learned counsel for the National Investigation Agency (NIA), as to whether any procedure has been followed by the said agency to seal the house for any good reason, in terms of any statutory provisions, he again reiterates that the house is not required to be sealed so far at least and that, therefore, no such procedure has been taken, but that nobody has come forward to collect the keys of the house from the agency.

Mr. Sharma, learned counsel for the petitioner, on the other hand submits that the agency not having any office in Amritsar to the knowledge of the petitioners, they had not gone to Delhi to obtain such keys.

Mr. Sandhu has further submitted that Inspector Dhiraj Kumar of the agency is present in Court, with the keys of the house, as were handed over by the Customs Department to the NIA.

Upon a query put by this Court to the aforesaid Inspector, he has again reiterated that the seizure of the house is not presently required, but the only problem in returning the keys is that in the Panchnama/communication submitted by the Superintendent, Customs Department, Amritsar, to the Chief Investigating Officer of the agency on 24.08.2019, the

number of the house is given as 182, New Pal Avenue, Ram Tirath Road, Amritsar (and not 282), with the envelope containing the keys also mentioning House No.182 on it.

Upon query, learned counsel for the Customs Department, submits that it would be seen that as per the affidavit filed in Court today, it is actually House No.282 that was searched on 13.07.2019, the keys of which were kept with the Customs Department and later were handed over to the NIA, but with a typographical/clerical mistake having shown the House Number to be 182.

That being so, the keys of House No.182/282 as are with the NIA (stated to be on the envelope to be those of House No.182), be handed over to learned counsel for the Customs Department, who would in turn pass them on to the Commissioner, Customs Department, Amritsar, who would then depute an official to House No.282, New Pal Avenue, Ram Tirath Road, Amritsar at 12.00 noon on 31.10.2019, with petitioner No.1 (and anybody she wishes should accompany her) to be also present there.

The key as is contained in the sealed envelope will be taken out from the envelope on the premises itself by the Customs Department official, who would see whether the key actually opens the lock of the premises or not.

If the key is not that of House No.282, the key would be re-sealed in the envelope by the Department of Customs and returned to the NIA, with the Customs Department to thereafter ensure that house No.282, New Pal Avenue, Ram Tirath Road, Amritsar, which had been admittedly searched on 13.07.2019 and was locked thereafter, is opened and possession thereof handed over to the petitioners on 31.10.2019 itself, positively.

Having said the above, it is made absolutely clear that this Court has not made any observation on the merits of the investigation continuing, and if at any stage any premises are sought to be 'seized' for any good reasons, due procedure as is provided, shall be resorted to by the investigating agency concerned, to take any such step.

Disposed of, with liberty to the petitioners to move an appropriate application if the directions given hereinabove are not complied with.

A copy of this order be given under signatures of the Court Secretary.

October 29, 2019

avin

**(Amol Rattan Singh)
Judge**

Whether Speaking/ Reasoned:

Yes/ No

Whether Reportable:

Yes/ No