

CRWP-3241-2020(O&M) 1

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

**CRWP-3241-2020(O&M)
Date of decision: 16.6.2020**

Vijay Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Dinesh Moriya, Advocate for
Mr. S.K.Gupta, Advocate for the petitioner

Mr. Deepak Sabharwal, Addl. AG, Haryana

Mr. Sunil Dhanda, Advocate for respondent no.7

ANIL KSHETARPAL, J. (ORAL)

The petitioner has filed a criminal writ petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for release of the alleged detenues, mentioned in para 3 of the petition.

On 29.5.2020, following order was passed by this Court:-

“Petitioner is seeking issuance of writ in the nature of Habeas Corpus for appointment of Warrant Officer to visit the spot, as friends and relatives of the petitioner mentioned in para No. 3, has been detained illegally detained by respondent Nos. 4 to 8.

Notice of motion for 16.06.2020.

On the next date of hearing, learned State counsel shall submit a report with respect to the above mentioned detainee.”

Reply by way of an affidavit of Deputy Superintendent of Police, Jind has been filed. Relevant part whereof reads as under:-

“2. That in pursuance of order dated 29.5.2020 passed by this Hon'ble High Court the Station House Officer, Police Station, Sadar Jind got conducted enquiry through ASI Jagdeep Singh of Police Station Sadar Jind. It is transpired from the enquiry report dated 5.6.2020 of ASI Jagdeep Singh that during the course of enquiry proceedings, he had visited at M/s Bajrang Bricks Kiln Co. Roopgarh and conducted search of the alleged detainee. On search by ASI Jagdeep Singh, the persons mentioned at serial Nos. 3 to 6 mentioned in para No.3 were found present and working there. During the course of enquiry proceedings, Meharban S/o Sh. Mangta, (mentioned at serial No.3 in para No.3 of the petition), Bhartha Ram-respondent No.4, Hari Kesh-respondent No.7, Suresh Verma and Ramesh Verma Ss/o Sh. Desa, Sushil s/o Shiv Bhawan and Manoj S/o Suresh (labourer working at the brick kiln and resident of district Banda, U.P) were joined in the enquiry and their statements were

also recorded. On enquiry, the allegations of illegal detention, threatening etc. of persons mentioned in para no.3 of the petition, levelled against the private respondent Nos. 4 and 8 were found false and frivolous. No evidence to substantiate these allegations came on file.

3. That during enquiry Shish Pal and his son namely Akash, mentioned at serial No.1 and 2 in para No.3, were not found present at the said brick kiln whereas, Mehar Ban, mentioned at serial No.3, made statement that he along with his family members is working at the said brick kiln at their own will and consent. Smt. Nazmin w/o Sh.Mehar Ban, Chikra D/o Sh. Mehar Ban and Imaan s/o Sh. Mehar Ban i.e persons mentioned from serial Nos. 4 to 6 in para No.3 of the petition were also found present at the brick kiln. False and frivolous allegations of their illegal detention have been levelled against the private respondents. He further disclosed that Vijay Kumar-petitioner has taken contract for the supply of mud mortar (Gara) to labourers of brick kiln for moulding bricks at the relevant site. The petitioner has advanced a sum of Rs.10 lacs from brick kiln owner and against the advanced money of Rs.10 lacs, the petitioner had done work of worth Rs.8,31,787/-. The petitioner in order to

make accounts good/ refund the balance of the amount of Rs.1,82,529/- left the brick kiln on the night of 16.5.2020 along with his machine and tractor. True copy of the statement of Mehar Bhan is being annexed as Annexure R-1.

Similar joint statement has also been made by other labourers working at the brick kiln namely Suresh Verma and Ramesh Verma Ss/o Sh. Desa, Sushil S/o Shiv Bhawan and Manoj S/o Suresh (labourer working at the brick kiln and all residents of district Banda, U.P). True copy of which is being annexed as Annexure R-2. Similarly, statement of respondent No.4-Bhartha Ram, owner of M/s Bajrang Bricks Kiln Co., Roopgarh was also recorded, who disclosed that no person has been illegally detained and Mehar Ban, mentioned at serial No.3, he along with his family members i.e wife Smt. Nazmin, daughter Chikra and son Imaan i.e persons mentioned from serial Nos. 4 to 6, are working at the brick kiln at their own will and no person has been illegally detained. True copy of statement dated 5.6.2020 of respondent No.4 is being annexed as Annexure R-3.

4. That, besides above, on 17.5.2020, a complaint of respondent no.4-Bhartha Ram, owner of M/s Bajrang Bricks Kiln Co., Roopgarh was received at

Police Station, Sadar Jind against the petitioner Vijay Kumar and Bahadur Singh, resident of village Molari for committing theft of mud mortar machine (Gara Bananewali machine). On this complaint, the petitioner was summoned for enquiry and on 23.5.2020, the petitioner had visited at Police Station Sadar Jind and on written request, the petitioner took time upto 27.5.2020 to settle the disputes among the parties. But, the petitioner did not come present on the given time. At present said complaint is pending enquiry. True copy of application of the petitioner is being annexed as Annexure R-4.”

In view of the aforesaid facts, it is apparent that the alleged detenues have not been illegally detained as being alleged in the petition.

In any case, the persons listed in para 3 are working at a brick kiln. In view of the provisions of the Bonded Labour System (Abolition) Act, 1976, any one who has been detained against his wishes at a brick kiln has a remedy before the concerned District Magistrate. In view thereof, present petition is disposed of.

16.6.2020

rekha

Whether speaking/reasoned

Whether Reportable

(ANIL KSHETARPAL)

JUDGE

Yes / No

Yes / No