

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

CRWP-3979-2020 (O&M)

Date of Decision:- 12.11.2020

Devkinandan

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Mohinder Kumar, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Mr. P.S.Ahluwalia, Advocate, for the respondent.

Mr. Vipul Joshi, Advocate, for respondents No.7 and 8.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

The petitioner has approached this Court seeking issuance of a writ in the nature of Habeas Corpus for production and release of detainee Birla Sharma who is petitioner's brother who is alleged to be illegally confined by respondents No.6 to 8 who are none else but wife, father-in-law, and brother-in-law of Birla Sharma.

This Court vide order dated 18.6.2020 had appointed a Warrant Officer to search for the alleged detenu. Pursuant to the aforesaid directions the Warrant Officer accompanied by the petitioner searched at the nominated place and submitted his report. The relevant extract from his report reads as follows:

“.....Thereafter a police party headed by ASI Tara Ram was deputed with us and we went to premises of alleged detenu and respondent No.6 where alleged detenu namely Sh. Birla Sharma and his wife Bharti Sharma respondent No.6 were found present alongwith their two children at home. Moreover I also noticed that respondent No.7 and 8 have also arrived there and were present in the house of the alleged detenu at that time. I disclosed my identity to the alleged detenu and his wife Bharti Sharma respondent No.6. Although initially she was not cooperating with the undersigned but after counseling by the undersigned, respondent No.6 cooperated and the alleged detenu appeared in a good state of mind and was not bed ridden. Thereafter I asked the alleged detenu regarding his presence there to which he stated that he is living with his family comprising respondent No.6 and two children however he, in a separate conversation, apprised me that respondent No.6 does not allow him to meet the petitioner and other family members and he is living under stress. He further disclosed that respondent No.6 is pressurizing him to give her rupees one crore. He further stated that respondent No.6 forcibly make him to drink alcohol. He further stated that he is undergoing treatment for chronic liver disease at Dayanand Medical College and Hospital, Ludhiana from the last two-three months. He

visited the said Hospital on 15.06.2020 and now he is feeling better and is not taking any medicine now. Thereafter he was also got examined by Dr. Jaskaran Singh, EMO, CHC, Banga who, after examining the alleged detenu gave his detailed report which is attached as Annexure A for kind perusal please, the same is reproduced herein below:-

General Condition-Patient is calm conscious, oriented to time, place and person. Vitals are pulse 86/min, BP 135/80 mmhg. Pupils are bilaterally normal and reactive to light. AS per record from DMCH, Ludhiana, patient was taking treatment for Chronic Liver Disease as patient is chronic alcoholic from last 20 years. As per last records, patient was described medicine in March of 2020 by concerned Doctor at DMCH. But patient said he recently visited DMCH Ludhiana 2-3 days back and all medicines have been changed by concerned doctor. But no record of latest prescription is found with patient and police. So the latest record of prescribed medicine that patient is taking is to be collected from DMCH Ludhiana.

In the end the alleged detenu stated that although he is living there under stress due to the behaviour of his wife as stated above, even then he wishes to stay in his house with his children and thereafter the alleged detenu left for his house adjoining to the hospital. I also got served the summons upon the respondent No.6 i.e. wife of the alleged detenu. Thereafter I alongwith petitioner and police party left the premises and came back to police station and after relieving the police party, I left for Chandigarh at 10.30 p.m by recording entry in the Roznamcha as DDR No.36 dt. 19.06. 2020.

The report is accordingly submitted for kind perusal please.”

A perusal of the aforesaid report does not indicate that it is a case where the brother of the petitioner is being illegally detained. It has been found that he is residing with his wife and children. Though the petitioner, did say that he was under some kind of stress on account of his wife but the same cannot be interpreted to mean that he is being illegally detained. The petition, as such, is dismissed.

November 12, 2020

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**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No