

CRWP-5819-2020

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

CRWP-5819-2020 (O & M)

Date of decision:29.10.2020

Sandeep Kaur

...Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. P.S.Dhanju, Advocate for
Mr. Tarun Sharma, Advocate,
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

Mr. R.S.Bains, Advocate,
for respondent No.3.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The present petition has been filed for the issuance of a writ in the nature of *habeas corpus* for the release of detenue-Sewa Singh, husband of the petitioner, from the alleged illegal detention of respondent No.3.

Vide order dated 09.08.2020 passed by a Coordinate Bench, Duty Magistrate, Zira, was directed to visit Police Station Zira and if the detenue was found under illegal detention of respondents No.3 and 4, he be set free.

Vide order dated 17.08.2020, a Coordinate Bench passed the following order:

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

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Pursuant to the order of this court dated 09.08.2020, a report of the learned Judicial Magistrate Ist Class, Zira, has been received, stating to the effect that he visited Police Station City, Zira, on 09.08.2020 at 5:00 p.m., and found the detenue, Sewa Singh, present in the police station, with the SHO having made a statement to the effect that the detenue was arrested on 09.08.2020 itself at 12:30 p.m. from his residence, as FIR no.88, dated 08.08.2020, has been registered on the complaint of one Harpreet Singh, alleging therein the commission of offences punishable under Sections 307, 323, 324, 341, 506, 148, 149, 188 and 269 of the IPC; and that though an attempt had also been made to arrest Sewa Singh on 08.08.2020 at mid-night, however he was not present at his residence.

Thereafter, he is stated to have been produced before the learned JMIC on 10.08.2020 at 11:00 a.m. Hence, according to the learned Judicial Magistrate, the detenue has been arrested as per law.

However, learned counsel for the petitioner submits that as a matter of fact the petition itself had been drafted on 08.08.2020, and therefore the SHO gave a completely false story to the learned Judicial Magistrate and consequently the CCTV footage from the police station may be obtained.

That being so, the SSP, Ferozepur, is directed to file his own affidavit, annexing therewith the CCTV footage of Police Station City Zira, from 11:00 a.m. on 08.08.2020, till 5:00 p.m. On 09.08.2020.

It is made absolutely clear that the CCTV footage itself must be annexed with the affidavit of the SSP, who, after perusing it shall state in his affidavit as to whether the detenue is seen to have been brought to the police station at any time prior to 12:30 p.m. On 09.08.2020.

If the affidavit of the SSP, Ferozepur, is not filed, he

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shall remain personally present in court by way of video conferencing, on the next date of hearing itself.

This court needs to observe here that upon directions earlier issued about one year ago, an affidavit had eventually been filed by the DGP/Home Secretary, to the effect that every single exit and entrance of each police station in the State of Punjab has been fitted with CCTV cameras, with this court also having directed that electricity back up must be provided to all cameras, so that no excuse can be given to the effect that the CCTV cameras were not working due to any power failure etc.

Naturally, all these factors would be taken into consideration by the SSP at the time that he files his affidavit.

Adjourned to 25.09.2020.”

In pursuance of the order dated 17.08.2020 passed by the Coordinate Bench, the Senior Superintendent of Police, District Ferozepur, filed the affidavit. Para No.3 of the affidavit would read as under:

“3. That it is respectfully submitted that in compliance of the directions passed by this Hon'ble Court, the answering respondent examined the CCTV footage of the CCTV cameras installed in Police Station City Zira from 11 a.m on 08.08.2020 till 12.30 p.m. on 09.08.2020. The perusal of the same revealed that the SHO Police Station Zira SI Jatinder Singh and SI Pippal Singh brought Sewa Singh(alleged detenue) in the Police Station City Zira on 08.08.2020 at about 11:35:46 a.m. who was made to sit in the room of munshi. Sewa Singh is seen coming out of the room of the munshi, Police Station Zira on the same day at about 12:21:12 p.m. alongwith PHG Avtar Singh. He is subsequently again seen coming out of munshi room at 2:16:26 p.m. Similarly, Sewa Singh is seen entering and coming out of munshi room many a times on the same day.

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The CCTV footage further reveals that Sewa Singh was taken in the police lock up on 08.08.2020 at 8:41:17 p.m. He was taken out of lock up on 09.08.2020 at 6:49:50 a.m. and was taken to room of the munshi where again he is seen coming out and entering back in the room of the mushi several times. The perusal of the daily diary register of the police station reveals that Sewa Singh was shown to be arrested in case FIR No.88 dated 08.08.2020 under Sections 307, 323, 324, 341, 506, 148, 149, 188 and 269 IPC, Police Station City Zira, on 09.08.2020 at 4:20:02 p.m.”

It is also stated in para No.7 of the affidavit that perusal of the CCTV footage shows that Sewa Singh was brought to the police station City Zira on 08.08.2020 and finding the incorrect statement made by the SHO and also the action taken in violation of law, SI Jatinder Singh and SI Pippal Singh, Police Station City Zira, have been placed under suspension and inquiry in this regard has been initiated against them. It is also stated in the affidavit that DSP (headquarters) Ferozepur has been deputed to conduct an inquiry in the matter against both the delinquent officials and any other official involved with them. Moreover, a criminal case bearing FIR No.88 dated 08.08.2020, under Sections 307, 323, 324, 341, 506, 148, 149, 188 and 269 IPC, Police Station City Zira, was registered against alleged detainee-Sewa Singh.

In view of the above, no further action in the present petition is called for.

Disposed of.

29.10.2020

parveen kumar

(HARNARESH SINGH GILL)

JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No