

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

**Contempt of Court Petition No.2598 of 2014 (O&M)
Date of Decision: January 10, 2020**

Swaran Singh Khara and another

.....PETITIONER(s).

VERSUS

Jatinder Singh Aulakh, Commissioner of Police, Amritsar and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Ms. G.K. Mann, Advocate
for the petitioner (s).

Ms. Deepali Puri, Addl.A.G., Punjab with
Mr. Sukhchain Singh Gill, Commissioner of Police, Amritsar.

Mr. S.S. Gill, Advocate
for respondents No.4 to 6.

SURINDER GUPTA, J.

Petitioners in case bearing FIR No.108 dated 01.09.2010 registered for the offences punishable under Sections 283, 506 of Indian Penal Code read with Section 68(1) of Police Act, 2007 at Police Station Cantonment, Amritsar, were allowed regular bail by Chief Judicial Magistrate, Amritsar vide order dated 09.09.2010 when they had surrendered in Court. They were again arrested in that FIR by ASI Prabhjot Singh, respondent No.2 on 29.08.2014 and this led to the filing of the contempt petition.

The fact, that petitioners were allowed regular bail in above

referred FIR and despite bail order, they were arrested on 29.08.2014 and

produced in Court, is not disputed. Concerned ASI was placed under suspension and a departmental enquiry was initiated against him, wherein ASI Prabhjot Singh, respondent No.2 was exonerated and the enquiry report was accepted by Commissioner of Police, Amritsar, resulting in dropping of charges against ASI Prabhjot Singh. While concluding the enquiry and exonerating ASI Prabhjot Singh, the enquiry officer in his report, had concluded as follows:-

“After perusing original documents of this departmental enquiry, summary of charges, statements of prosecution witnesses, statements of defence witnesses and statement/defence reply from SI Prabhjot Singh No.65/INT, I have reached to the conclusion that when the respondent SI Prabhjot Singh No.65/INT was posted as In-charge of PP Gumatala, then investigation of FIR No.108 dated 01.09.2010 U/S 283, 506 IPC, 68(1) Police Act, 2007, P.S. Cantonment, Amritsar was handed over to him. The case file has been perused by me, therein nothing has been mentioned in the case file by any Investigating Officer prior to SI Prabhjot Singh No.65/INT with regard to receiving any order regarding bail either from the accused or the Court. Even no order was produced to SI Prabhjot Singh No.65/INT by the accused with regard to their bail in the case and nor any order was received from the Court with regard to bails of the accused. When the accused were arrested by SI Prabhjot Singh No.65/INT then he asked the accused that your offence is bailable, call respectable person for bail so that I could take your bail. But the accused did not produce any surety and nor had produced any order regarding their bails. Thus, the accused, while being arrested by SI Prabhjot Singh No.65/INT, were produced

before the Court of Sh.Shivangi Sangar, JIMC then the accused produced copy of orders of their bail granted by the Court of Sh. V.K. Goyal, CJM, Amritsar. Thus, the Ld. Judge released them from the Court itself. Thereafter, the accused have yet not joined the investigation. It proves from it that the accused are deliberately misleading the police. In the enquiry conducted till now by me, no fault of SI Prabhjot Singh No.65/INT is proved.”

During enquiry, evidence was produced to prove that respondent No.2 had arrested the petitioners on 29.08.2014 but no *Rapat* was got registered by him in daily diary register of police station regarding arrest of the petitioners or their confinement in case bearing FIR No.108 dated 01.09.2010. No entry was got recorded in the index of the FIR regarding arrest of the petitioners and this fact was so stated by HC Wilson Masih Prosecution Witness No.3 in the enquiry proceeding and Inspector Gurwinder Singh Prosecution Witness No.4, who was posted as SHO, Police Station Cantonment at relevant time. He has gone to the extent of deposing before the enquiry officer that respondent No.2 had not even intimated him about the arrest of the petitioners, who had already been granted bail by the Court of Shri V.K. Goyal, Chief Judicial Magistrate, Amritsar. After arrest, they were produced before the Court and were released by learned Magistrate. PW6 Assistant Commissioner of Police, Amritsar Amandeep Singh Brar, who had conducted preliminary enquiry into the matter, had deposed before the enquiry officer as follows:-

“It was revealed on enquiry conducted by me that due to arresting the accused Swaran Singh alias Fauji and his wife Rajinder Kaur R/o above in the above

case by SI Prabhjot Singh, by getting issued their warrants from the Court, by not paying personal attention towards investigation of the case and by not obtaining the record with regard to the bails of the accused granted on 9.9.2010 by the Hon'ble Court of Sh. V.K. Goyal, Chief Judicial Magistrate, Amritsar by arresting Swaran Singh and his wife Rajinder Kaur, R/o above, by making them sit outside the Hon'ble Court of Sh. Shivani Sangar, JMIC, Amritsar at 08.30 AM before the time of the Court, by not making entry in the *roznamcha* of arrest of the accused, by not preparing memos of arrest and information to heirs, memo of personal search in the case file by SI Prabhjot Singh No.65/INT then Incharge PP Gumtala, proof of negligence and carelessness has been shown.”

The aforesaid fact shows that despite the negligence and arrogant attitude, enquiry officer has been kind enough to exonerate respondent No.2 of the charges and worthy the Commissioner of Police, City Amritsar agreed with the report.

If a person, who is on bail under the order of the Court, has been again arrested in bailable case, he will certainly cry hoarse to proclaim that he is on bail. It is proved from report of enquiry officer that order granting bail was also shown to the Court when petitioners were produced there after their arrest. From the statement of Assistant Commissioner of Police, Amritsar Amadeep Singh Brar, it appears that respondent No.2 had not only arrested the petitioners but had made them sit outside the Court at 8.30 a.m. i.e. much before Court time. He had not even made entry in the *roznamcha* of the police station about arrest of the petitioners or prepared

petitioners or memo of personal search. The petitioners have suffered agony, insult, mental torture and harassment due to their arrest despite being on bail but the State has been kind enough to exonerate the person responsible for all this.

It has been stated that respondent No.2 has since retired from service.

Keeping in view the above facts, I am of the considered opinion that instead of proceeding further against respondent No.2, it will be appropriate and serve the interest of justice if the petitioners are compensated for the wrongful act done to them by respondent No.2.

Taking note of all the above facts and circumstances, I impose a costs of ₹1 lakh payable to the petitioners by the State. The liberty is, however, allowed to the State to recover this amount from the person/official found to be at fault. The payment be released to the petitioners in equal shares within a period of three months.

With above directions, this petition stands disposed of.

January 10, 2020

Sachin M.

**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No