

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

(Through video conferencing)

**CRM-M No.22553 of 2021
Date of Decision: 26.08.2021**

Manminderjit Singh @ Mannu

.....Petitioner

Vs

State of Punjab and others

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Abhinav Gupta, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks transfer of investigation in case bearing FIR No.35 dated 12.02.2021, registered under Section 22 and Section 29 (added later on) of NDPS Act at P.S. Civil Lines, District Patiala to an independent agency like Central Bureau of Investigation.

[2]. Prosecution story started with the allegations that on 11.02.2021 at about 8.50 P.M., when police patrolling party was checking the vehicles, they stopped one Maruti Swift car without number which came from the side of Nabha. The vehicle was

signalled with torch to stop. The driver stopped the car and on being asked to show the documents, he opened the dashboard of the car and took out black colour bag containing the documents. The zip of the bag was not working, therefore, a white colour plastic envelope came out and fell down through the middle of thighs of driver. When ASI asked the driver about the plastic envelope, he became nervous and told that narcotic tablets are present. On being asked, the driver told his name as Manminderjit Singh @ Mannu. ASI informed the police station to send Investigation Officer for further investigation in the case. The FIR came to be registered on 12.02.2021 at 00.35 hours.

[3]. Learned counsel for the petitioner submitted that the petitioner is in the business of sale and purchase of used cars in Patiala for the last three years. In the end of the year, 2019, he came into contact with a lady namely Sarabjit Kaur wife of Jagsir Singh and they entered into a relationship. Husband of Sarabjit Kaur came to know about this relationship in January 2021 and he moved a complaint to the Police i.e. Police Post Mavi Kalan, Tehsil Samana, District Patiala. The matter was ultimately patched up before the Panchayat.

[4]. Learned counsel further submitted that on 11.02.2021, petitioner returned from the house of his in-laws and parked his car at Diamond Car Wash for washing of the car. The said

Washing Centre is situated at the back side of his house. At about 3.00 P.M., petitioner made a whatsapp call to his wife Charanjit Kaur in USA. In the meanwhile, police party-cum-CIA Staff along with one Goggi (informer) came to house of the petitioner and made forcible entry. They took the petitioner from his room and also took away DVR and laptop from the house of the petitioner. The incident was witnessed by Gurjit Singh Prashar neighbour of the petitioner, who has given an affidavit in this regard on 20.05.2021.

[5]. Learned counsel further submitted that the car of the petitioner was forcibly taken away from the Washing Centre at 3.00 P.M. The worker at the Diamond Car Wash tried to inform the petitioner, but his mobile phone was found to be switched off. Proprietor of the Washing Centre namely Arun Dutt has also executed an affidavit dated 13.05.2021 in this regard. He also informed father of the petitioner that car of the petitioner has been forcibly taken away by the Police. Father of the petitioner went to the nearest police beat box where police officials asked him to wait for 24 hours and if his son does not return, then they will register a DDR. At about 11.30 P.M., parents of the petitioner received a call from CIA Staff that their son has been arrested in NDPS case. On 14.02.2021, parents of the petitioner were called by one police official namely Jagroop Singh and he

asked them to collect DVR and laptop of the petitioner from his house. Upon checking, the parents of the petitioner found that the data from DVR and laptop has been deleted by the police officials. The entire occurrence dated 11.02.2021 was clearly recorded in CCTV installed at the house of the petitioner. On 16.02.2021, the parents of the petitioner came to know from newspaper that the petitioner has been implicated in the present FIR by concocting a false story. Sarabjit Kaur has also been arrayed as a co-accused on the alleged disclosure statement of the petitioner.

[6]. Learned counsel further submitted that even after filing of challan, the Court in appropriate case can handover the investigation/further investigation to an independent agency like CBI. Learned counsel by relying upon **CRM-M No.44010 of 2016** titled **'Abhishek Chetal vs. Central Bureau of Investigation and others'** decided on 30.01.2019; **Baggu Khan vs. State of Punjab and others' 2016(3) Law Herald 2360**; **Vinay Tyagi vs. Irshad Ali @ Deepak and others, 2013(2) R.C.R. (Criminal) 197** and **Rubabbuddin Sheikh vs. State of Gujarat & Ors., 2010(1) R.C.R. (Criminal) 738** submitted that fair trial/investigation is a part of constitutional right guaranteed under Article 20/21 of the Constitution of India. The investigating agency cannot be allowed to conduct the

investigation in tainted and biased manner. The Police has not acted fairly in the present case, rather acted on behalf of husband of Sarabjit Kaur. Despite compromise, the things did not go down with the ego of husband of Sarabjit Kaur.

[7]. I have considered the submissions made by learned counsel for the parties.

[8]. Admittedly the challan has been submitted. The arguments made by learned counsel for the petitioner are based on some facts which are yet to be ascertained during course of trial. The affidavits Annexures P-3 and P-4 are dated 20.05.2021 and 13.05.2021 respectively. The occurrence took place on 11.02.2021 for which FIR was registered on 12.02.2021 at 00.35 hours. The evidentiary value of these affidavits can only be tested during course of trial. These documents at the most can be proved in defence evidence.

[9]. At this stage, the material relied upon by learned counsel for the petitioner cannot be presumed to be unimpeachable material/document. In the case of **Rubabbuddin Sheikh vs. State of Gujarat & Ors' case** (supra) writ petition was filed before the Hon'ble Apex Court for transfer of case to CBI as the State Police did not investigate the case properly. It was held that the Hon'ble Apex Court in an appropriate case can hand over the case to an independent

agency like CBI even after filing of the chargesheet. The Hon'ble Apex Court while dealing with the issue relied upon the ratio(s) of earlier judgments in **M.C. Mehta vs. Union of India & Ors., 2007(4) R.C.R. (Criminal) 613; Aleque Padamsee & Ors. vs. Union of India, 2007(3) R.C.R. (Criminal) 815** and **R.S. Sodhi vs. State of U.P., AIR 1994 SC 38** and in the facts and circumstances of that case referred the case to CBI even after filing of chargesheet.

[10]. In the present case, learned counsel for the petitioner has relied upon some documents which are subsequently executed by the deponents and persons. At this stage, the said documents cannot be treated *per se* admissible, however as per ratio of **Vinay Tyagi vs. Irshad Ali @ Deepak and others'** case (supra), petitioner would be at liberty to avail his remedies with the leave of the Court in accordance with law.

[11]. In view of aforesaid, no indulgence can be granted for transfer of investigation to an independent agency at this stage. This petition is found to be devoid of merits and is accordingly dismissed.

August 26, 2021

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No