

In virtual Court

CRWP-8308-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-8308-2021 (O&M)
Date of decision: 20.09.2021

Mohit Guglani

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Momi, Advocate
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

On oral request of learned counsel for the petitioner, the main case is taken up for hearing for today itself.

Annexures A-1 to A-3 attached with CRM-W-1125-2021 are taken on record.

Prayer in this petition is for issuance of a writ in the nature of habeas corpus directing the official respondents to release the petitioner, who is presently confined in District Jail, Kurukshetra, in pursuance to his arrest in FIR No.96 dated 20.04.2021 under Sections 467, 468, 471, 120-B IPC and Sections 12, 12 (1)(B) of Passport Act and FIR No.118 dated 13.05.2021 under Sections 420, 467, 468, 471, 120-B IPC and Section 71 of Information and Technology Act, both registered at Police Station City Pehowa, District Kurukshetra as well

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as to quash the remand order dated 31.05.2021 and the order dated 05.07.2021 passed in aforesaid FIRs by the Illaqa Magistrate respectively, being illegal and erroneous.

Learned counsel for the petitioner submits that the petitioner stands arrested in five FIRs, details of which are given as below: -

Sr. No.	FIR No.	Registration Date	Date of arrest of the petitioner	Status
1.	FIR No.63 against Harmanjit Singh	23.03.2021 under Sections 420, 467, 468, 471 IPC and Sections 12, 12(1)(B) of Passport Act Complainant - SSP, Amritsar	17.04.2021	Challan presented on 11.06.2021 and the petitioner is on bail vide order dated 17.06.2021 passed by SDJM, Pehowa
2.	FIR No.70 against Yuvraj Singh	31.03.2021 under Sections 420, 467, 468, 471 IPC and Sections 12, 12(1)(B) of Passport Act Complainant – Naveen Puri	07.05.2021	Challan presented on 05.07.2021 and the petitioner is in custody
3.	FIR No.95 against Harender Singh	19.04.2021 under Sections 420, 467, 468, 471, 120-B IPC and Sections 12, 12(1)(B) of Passport Act Complainant – ASI Gurdev Singh	19.04.2021	Challan presented on 17.06.2021 and the petitioner is on bail vide order dated 01.07.2021 passed by ASJ, Kurukshetra
4.	FIR No.96 against Sukhbir Singh son of Balbir	20.04.2021 under Sections 420, 467, 468, 471, 120-B IPC and Sections 12, 12(1)(B) of Passport Act Complainant – ASI Randhir Singh	31.05.2021	Challan presented on 29.07.2021 and the petitioner is on bail vide order dated 23.08.2021 passed by ASJ, Kurukshetra
5.	FIR No.118 against 11 persons on the basis of disclosure statement of	13.05.2021 under Sections 420, 467, 468, 471 IPC and Section 71 of IT Act Complainant – SI Baljit Singh	05.07.2021	Challan yet to be and the petitioner is in custody

	Mohit Guglani			
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Learned counsel for the petitioner further submits that the allegations levelled in all five FIRs are similar in nature and are arising out of the same incident, therefore, repeated registration of the FIRs or repeated arrest of the petitioner is illegal and his custody is also illegal and he should be released from the custody by issuing a writ in the nature of habeas corpus. It is further submitted as under: -

- (a) FIR No.63 was got registered on a complaint given by SSP, Amritsar with the allegations that one Harmanjit Singh, arrested by Amritsar Police, is a gangster and during investigation, it has come to notice of the police that said gangster Harmanjit Singh got a passport bearing No.T388936 issued from Passport Office, Chandigarh and address mentioned on the same is Ward No.14, Fauji Plot, Pehowa, Kurukshetra. On verification, it was found that address of the gangster was found to be fake and he obtained the passport on the basis of fake documents, therefore, action be taken against the person, who has prepared the fake documents.
- (b) Later on, the petitioner was arrested in FIR No.70 got registered by one Naveen Puri with the allegations that the petitioner is habitual in preparation of fake passports by preparing false and fake documents and is helping the criminals in running away from India, by charging huge amount. Certain instances have been given in the FIR, wherein the persons, who are involved in FIR under

Section 307 IPC, were helped by the petitioner in preparation of their passports on the basis of false documents by giving false address so that the police may not properly verify their antecedents.

- (c) In FIR No.95 got registered at the instance of ASI Gurdev Singh, it is stated that during the investigation of a case registered against one Harender Singh, it was found that he has obtained a fake passport by giving his address of Pehowa, District Kurukshetra, whereas he is resident of Gurdaspur. Said Harender Singh is a person of criminal background and the petitioner has prepared the fake documents for preparation of passport.
- (d) FIR No.96 was got registered by ASI Randhir Singh on the basis of a secret information that one person Sukhbir Singh, who is resident of District Ambala, again by giving fake address of Pehowa, District Kurukshetra, has got the passport prepared in conspiracy with the petitioner.
- (e) Similarly, FIR No.118 was registered at the instance of SI Baljit Singh that the petitioner, apart from preparing fake passports, is also preparing fake school certificates, diplomas, degrees of Universities, character certificates and provisional certificates by changing the figures, date of birth etc. and is sending the same to different persons from his email ID by charging Rs.10,000/- per document. During investigation, it is found that the petitioner has prepared number of fake documents of different persons, who

wanted to go abroad by preparing totally fake certificates.

Learned counsel for the petitioner has submitted that in all the five FIRs, the allegations against the petitioner are identical and he has been involved in multiple FIRs. He has relied upon judgment of the Hon'ble Supreme Court in **T.T. Antony Vs. State of Kerala, 2001 (3) RCR (Cr.) 436**, wherein it is held that second FIR in respect of an offence or different offence committed in course of same transaction, is not permissible, as it violates Article 21 of the Constitution of India. It is further held that scheme of the Criminal Procedure Code is that an officer-in-charge of a police station is to commence the investigation as per Section 156 Cr.P.C. or Section 157 Cr.P.C., on the basis of First Information Report and on completion of the investigation, has to form an opinion under Sections 169/170 Cr.P.C. and to submit the report under Section 173 (2) Cr.P.C. to the Magistrate concerned. However, even after filing such a report, if he comes into possession of further information or material, he need not to register a fresh FIR.

It is next submitted that registration of aforesaid five FIRs amounts to violation of right of the petitioner under Article 20 of the Constitution of India. It is further submitted that the petitioner has already been released on regular bail by the Illaqa Magistrate in FIRs No.63, 70 & 95, therefore, remand granted by the Illaqa Magistrate in FIRs No.96 & 118 is illegal and liable to be set aside.

In reply, learned State counsel has submitted that present petition praying for a writ in the nature of habeas corpus, in the present circumstances, is not maintainable and has referred to **Home Secretary (Prison) and others**

Vs. H. Nilofer Nisha, 2020 (14) SCC 161, to submit that where a person is in judicial custody, in pursuance of a judicial order, the habeas corpus petition is not maintainable. It is further submitted that in FIR No.63, complaint was given by SSP, Amritsar that the petitioner got prepared fake passport of a gangster Harmanjit Singh and similarly other FIRs were registered for preparation of passports of different persons, who are not residing at the given address, by preparing fake certificates including birth certificate, school certificate, school leaving certificate, degrees etc. It is also submitted that as and when a criminal was arrested and the police demanded his passport, on verification, it was found that it is the petitioner, who has prepared the same to help the criminals in running away from India, therefore, it cannot be said that all the FIRs have been registered in a sequel and in fact, it is one incident.

After hearing learned counsel for the parties, I find no merit in the present petition, as noticed above.

In all the FIRs, the allegations are that the police, when arrested the gangster or criminal, residents of different places in Punjab and Haryana, it is found that they, in conspiracy with the petitioner, on the basis of various fake documents like birth certificate, school certificate, school leaving certificate, detailed mark-sheet, college degrees, experience certificate etc., which were prepared by the petitioner, on his computer by changing the figures i.e. either by changing the marks or date of birth or year of issuance of certificate etc. got passport prepared on fake address or submitted application for visa on fake documents and thus, the petitioner, in active conspiracy, was trying to help the criminals in preparing passport altogether on fake address so that they may flee

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from India as well as from the process of justice.

All the FIRs do not arise out of one incident and relate to different persons having criminal background in Punjab and Haryana.

Even otherwise, detention of the petitioner in judicial custody is in pursuance of the remand order passed by the Illaqa Magistrate, as his custodial interrogation was carried on and various fake documents were recovered, as stated by learned State counsel.

Considering the fact that in fact, the petitioner is actively involved in conspiracy with gangster/criminals in helping them to prepare fake documents as well as preparing fake passports by giving fake address, I find that this petition praying for issuance of a writ in the nature of habeas corpus, in view of judgment of the Hon'ble Supreme Court in **H. Nilofer Nisha's** case (supra), is not maintainable.

Accordingly, the present petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

20.09.2021
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No