

CRM-M-37199-2020 (O/M)

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

Criminal Misc. No.M-37199 of 2020 (O/M)

Date of Decision: June 16, 2021

Savtantar Rai Bhandari

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Mr. Dinesh Mahajan, Advocate
for the applicant-petitioner.

Mr. Sarabjit Singh, AAG, Punjab.

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HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 482 Cr.P.C for the issuance of directions to respondent Nos.2 to 7 (official respondents) to conduct fair investigation in the case FIR No. 68 dated 22.05.2020 which according to the petitioner has been registered against him falsely solely with the objective to declare the respondent No.8 who is a liquor contractor innocent in case FIR No.75 dated 12.04.2020 (P/2) which was initially registered against him for selling liquor during lock down. It is prayed that the case FIR 68 dated 22.05.2020 be investigated by some superior officer of some other district than the home District Pathankot.

It is pleaded in the petition that one FIR No.75 dated 12.04.2020 (P/2) was registered under Sections 188, 269 IPC and 61-1-14 of Punjab Excise Act against Davinder Singh (Respondent No. 8) who is a liquor

contractor for selling liquor during curfew imposed in the State of Punjab. Davinder Singh had filed a petition seeking anticipatory bail which was dismissed vide order dated 17.04.2020 (P-3) passed by Ld. Additional Sessions Judge, Gurdaspur. It is further pleaded that when Davinder Singh failed to get the relief of anticipatory bail he moved an application for enquiry and managed to get clean chit by using his influence in connivance with the police officials. During enquiry, he came with the defence that the petitioner had snatched his car carrying liquor and petitioner along with other persons were made scapegoat by registering the present FIR against them in order to save said Davinder Singh.

It is the case of the petitioner that no offence under Section 379B is made out. The complainant alleged that there were 5 persons transporting the liquor in his van and petitioner along with other persons armed with dangs etc. snatched his vehicle. It is highly improbable that when on both sides there were number of persons neither any fight took place nor any injury was suffered by any person on either side. Further, it is submitted that the complainant failed to show that any permission from respondent No.2 or 3 was obtained for transporting the liquor as there were seals affixed on all the liquor shops during curfew imposed in the State of Punjab. There is no explanation as to why he was transporting the liquor at 12 midnight and how he had apprehension of theft from his liquor shop which was just at 100 meters distance from police post at Gharota.

To show that the complainant-Davinder Singh has been favoured by the police it is stated that he had moved the first application for investigation on 27.04.2020 i.e., after dismissal of his bail application and

after 15 days of registration of FIR i.e. 12.04.2020. He had been called to the Police Station a number of times, but he was not arrested rather he was given clean chit by implicating the petitioner after registration of the present FIR (P1). The entire story was concocted and petitioner was falsely implicated by the complainant in connivance with the police officials under his influence only in order to give the clean chit to the complainant.

It is further stated that the petitioner is doing the business of shuttering and cement along with his father. He was falsely implicated in the present case as a counter-blast to the case got registered by his father against the police officials ASI Kuldip Singh and ASI Rajinder Kumar for demanding Rs.50,000/- for not to implicate him in a false case. FIR dated 23.10.2019 (P4) was registered in this regard.

A detailed reply has been filed on behalf of the respondent State. The allegations in the petition have been denied. It is submitted that on receipt of notice in the petition, the SHO Police Station Taragarh, District Pathankot was directed to submit his report. As per the report of the SHO, registration of the aforesaid FIR No.68 dated 22.05.2020 for offences under Section 379-B (2) IPC P.S. Taragarh, District Pathankot is a consequence of the detailed enquiry which was conducted by the respondent No.6, Sulakhan Singh PPS, the then Deputy Superintendent of Police, Rural, Pathankot (now retired) into the application bearing No.923/13947/BR-PC, dated 24.04.2020 given by Davinder Singh to the Inspector General of Police, Border Range, Amritsar with regard to FIR No.75 dated 12/04/2020, under Sections 188, 269 IPC, 61/1/14 Excise Act, Police Dinanagar, Gurdaspur. During the course of the enquiry statements of all concerned were recorded,

call detail records of mobile phones, CCTV footage of Toll Plaza and Naka Parmanand, Pathankot were obtained. The case file of the above FIR was also examined. On the basis of detailed enquiry conducted by Respondent No.6, Sulakhan Singh PPS, it was revealed that the applicant Davinder Singh is a wine contractor, who has a liquor vend at village Gharota also. The liquor stored at the liquor vend of village Gharota could not be sold due to lockdown in the wake of COVID-19. Therefore due to apprehension of theft of the liquor, on 11.04.2020, the applicant Davinder Singh loaded 100 boxes of Royal Stag Whisky from the above liquor vend in Pickup Bolero No. PB-35-Z-0506 for shifting to other branch at village Jhakholahri, District Pathankot. The workers of Davinder Singh namely Deepak Saini alias Deepu, Vinod Kumar alias Karan, Kulwinder Singh alias Sanjay and Ashok were sitting in this vehicle. He himself sat in another vehicle Bolero No.PB06-R-8288. The vehicle of Davinder Singh was going ahead of the above vehicle carrying the liquor. In the meantime, the present petitioner Savtantar Rai Bhandari, who had an altercation with the complainant Davinder Singh some days ago at village Jangla, hatched conspiracy with his co-accused to snatch the above vehicle which was carrying liquor boxes. He set co-accused Liyakat Ali to keep surveillance. Thereafter, the petitioner along with Arun alias Anku, Sandeep Singh, Mintu and Kalu made plan to snatch the above vehicle carrying the boxes of liquor. The petitioner had taken assistance of HC Sucha Singh No.613/GSP, PS Dinanagar who was known to him for crossing Naka of District Pathankot at village Parmanand. This episode was captured in CCTV cameras installed at the naka point. After crossing the naka point, the petitioner along with his co-accused kept on

roaming and waiting for signal of Liyakat Ali, who made phone call from his mobile phone No.9009444629 on mobile phone No.8740049000 of the petitioner and gave him information about movement of the above vehicle carrying boxes of liquor. Thereafter, when both the above vehicles of the complainant Davinder Singh crossed Toll Plaza of Ladhplawan then the petitioner along with co-accused Arun alias Anku, Sandeep Singh, Mintu and Kalu who were riding in one Swift car started chasing these vehicles. They intercepted the above vehicle Pickup Bolero, which was carrying 100 boxes of Royal Stag whisky on National Highway. At that time the vehicle of Davinder Singh had gone ahead of it. The petitioner and co-accused, who were armed with weapons and had covered their faces, beaten and threatened the person, who were riding in the above vehicle, due to which Kulwinder Singh received injury on his left foot. Thereafter, the petitioner and his co-accused snatched the above vehicle Pickup Bolero No.PB-35-Z-0506 from its occupants (workers of Davinder Singh). The petitioner himself drove the snatched vehicle and other co-accused sat in the Swift car. They went to the area of village Deeda Sansian. They unloaded 65 boxes of liquor from the above Pickup Bolero vehicle. Some boxes were loaded in the Swift car and some boxes of liquor were kept in the wheat fields and one person Meeka was asked to take away the same. Thereafter, the petitioner handed over the above Pickup Bolero vehicle along with remaining 35 boxes of liquor to HC Sucha Singh No.613/GSP and other police officials of Police Station Dinanagar, District Gurdaspur. In the meantime the driver of Davinder Singh informed him about the occurrence. Devinder Singh reached there and gave information about this occurrence to Inspector Balwinder Singh, SHO PS

Sadar, Pathankot, but as the place of occurrence fell in the jurisdiction of PS Taragarh, District Pathankot, therefore, the information was passed to SI Surinderpal Singh, SHO PS Taragarh. The police parties searched for the above vehicle the whole night. In the morning the police party came to know that the police of Police Station Dinanagar, District Gurdaspur had registered FIR No.75, dated 12.04.2020, under Section 188, 269 IPC and 61/1/14 Excise Act, PS Dinanagar, District Gurdaspur against two unknown persons, who had run away after leaving the above vehicle carrying 35 boxes of Royal Stag whisky at turn of village Gharota, village Mari, Dida Sansian. During the course of investigation of the case, on the basis of ownership of the above vehicle, Davinder Singh was nominated as accused in the case. Therefore, the respondent No.6, Sulakhan Singh PPS, vide his detailed enquiry report dated 10/05/2020 submitted to the Senior Superintendent of Police, Pathankot had recommended for cancellation of the above FIR No.75, dated 12.04.2020, under Section 188, 269 IPC and 61/1/14 Excise Act, PS Dinanagar, District Gurdaspur and taking departmental action against the members of the police party of this case along with HC Sucha Singh and SHO of PS Dinanagar. In addition to this, it was also recommended that FIR under Section 379-B(2) IPC may be registered against the petitioner, Arun Kumar alias Anku, Sandeep Singh, Liayakat Ali, Kalu and Mintu. The Senior Superintendent of Police, Pathankot further submitted his report vide his office Memo No.155-PC, dated 18.5.2020 to the Inspector General of Police, Border Range, Amritsar. The Inspector General of Police, Border Range, Amritsar approved the report of the respondent No. 6 Sulakhan Singh PPS and the same was further marked vide his office Memo No. 923/16787-88/BR-PC,

dated 20.05.2020 to Senior Superintendent of Police, Gurdaspur and Senior Superintendent of Police, Pathankot for taking further action as per the recommendations made therein. The enquiry report of the respondent No. 6, Sulakhan Singh PPS, the report of Senior Superintendent of Police, Pathankot and memo of the Inspector General of Police, Border Range, Amritsar have been annexed as Annexure R-1/T to R-3/T respectively.

Consequent to the above FIR No.68 dated 22.05.2020, under Section 379-B (2) IPCF, Police Station Taragarh, District Pathankot has been registered against the petitioner and other co-accused. The final investigation report (cancellation) has been prepared on 26.07.2020 in the above FIR No.75, dated 12.04.2020, under Section 188, 269 IPC and 61/1/14 Excise Act, PS Dinanagar, District Gurdaspur, which is to be presented before the Court of competent jurisdiction after completing procedural formalities. Regular departmental enquiry was initiated against the police party of the above FIR No.75 dated 12.04.2020 under Section 188, 269 IPC and 61/1/14 Excise Act, PS Dinanagar, District Gurdaspur.

It has also been stated that during the course of investigation of the FIR No.68 dated 22.05.2020 under Section 379-B (2) IPC, PS Taragarh, District Pathankot, the present petitioner Svatantar Rai Bhandari and other co-accused have joined investigation . They have all been granted bail. But all the accused have not got effected recovery of the snatched whisky. The case is still under investigation and on completion thereof report under Section 173 Cr.P.C. will be filed.

It is also stated in the reply that the petitioner Savtantar Rai Bhandari and co-accused Arun alias Anku are habitual offenders and they are

involved in the following FIRs :

FIRs against petitioner Savtantar Rai Bhandari

1. FIR No.49 dated 02.11.2018 under Section 61/1/14 Excise Act, PS Sadar Pathankot. (Recovery 612 bottles whisky-Acquitted).
2. FIR No.25 dated 04.05.2019, under Section 61/1/14 Excise Act, PS Taragarh, District Pathankot. (312 bottles of whisky of Haryana- Under investigation)
3. FIR No.31, dated 3.06.2019, under Section 61/1/14 Excise Act, PS Taragarh, District Pathankot. (640 boxes of whisky of Haryana-Pending for trial).
4. FIR No.49, dated 04.08.2019, under Section 61/1/14 Excise Act, PS Sadar Pathankot. (Recovery 1440 bottles of whisky of Himachal Pradesh-Pending for trial).
5. FIR No.77 dated 16.11.2019, under Section 341, 342, 506, 365, 379B, 34 IPC, PS Sadar, Pathankot. (under investigation).

FIRs against petitioner Arun Kumar alias Anku

1. FIR No.110 dated 21.08.2016 under Section 379 IPC, PS Division No. 2, Pathankot. (under trial)
2. FIR No.2 dated 04.01.2019, under Section 61/1/14 Excise Act, PS Taragarh, Pathankot (under trial)
3. FIR No.116 dated 27.09.2020, under Section 353, 186, 332, 308, 148, 149 IPC, PS Taragarh, Pathankot. (pending for trial).

From a perusal of the detailed reply filed by the official respondents it is clear that the FIR has been registered against the petitioner and other co-accused consequent on a detailed enquiry. The petitioner and

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other co-accused have joined investigation. They have all been released on bail.

There appears no reason to interfere with the investigation and order that the case be investigated by some other agency.

Accordingly this petition is dismissed. It is however made clear that it would be open to the petitioner to avail of any remedy before the Trial Court as may be permissible in law.

June 16, 2021

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No