

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CRWP No.1805 of 2022
Date of Decision: April 26th, 2022

Bala Devi Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Argued by: Ms. Afshan, Advocate
for the petitioner.

Mr. Amreek Singh Narwal, DAG, Haryana.
for the respondent/State.

SANT PARKASH, J.

The instant petition has been filed under Article 226/227 of the Constitution of India seeking issuance of a writ in the nature of habeas corpus seeking appointment of Warrant Officer to get the detainee namely Sonu released from the illegal custody of respondents No.3 and 4.

Brief facts leading to the present case are that on 22.02.2022 at around 4 p.m., when the detainee (son of the petitioner) was standing in front of M/s Enterprises Near Bahadurgarh, District Jhajjar then some police personnel along with respondent No.4 came there and took away the detainee forcibly in a vehicle to some undisclosed location along with two vehicles belonging to the friend of the detainee. When the petitioner approached respondent No.4 to know the whereabouts of the detainee,

respondent No.4 arranged a phone call to talk with the detainee, but thereafter, he neither allowed the petitioner to talk to the detainee nor disclosed his whereabouts. Rather, respondent No.4 demanded money from the petitioner and threatened her that he would implicate the detainee in a false case. The petitioner has the apprehension that the police has either eliminated the detainee or will implicate him in a false case and therefore, she moved a representation dated 24.02.2022 before respondent No.3, but no action has been taken on the same.

Vide order dated 25.02.2022, this Court directed the registry to appoint a Warrant Officer, who shall visit the place where the detainee-Sonu was alleged to be detained illegally and get him released if he was found to be in the illegal custody.

In compliance of the said order, Shri Bhag Singh Virk was appointed as Warrant Officer, who visited the premises of CIA-III, Panipat and submitted his report dated 02.03.2022. The relevant part of the report is as under :-

“Thereafter, I asked him about the arrest of Sonu s/o Sugad. Krishan Kumar, ASI said that police have not arrested Sonu. Then we searched each and every room of CIA-III Panipat. Sonu was not found there. Krishan Kumar made a call to the Incharge Anil Chhillar (Inspector). He told us to please wait as Incharge is coming in a short while. I alongwith Advocate asked him when you have conducted raid at the residence of Sonu as per photographs attached herewith as Annexure P-1. Krishan Kumar replied that we worked here in different teams. My team is different and ASI Sant Ram team is different. I said that as per petition, Sant Ram ASI arrested him. Krishan Kumar said that no case against Sonu is in his knowledge. You may ask the Incharge or ASI Sant Ram about the arrest of Sonu. Krishan Kumar further stated that if Sant Ram brought Sonu in CIA Center, he will release him tomorrow after investigation. I said him that why not today. He replied that neither Sant Ram nor Sonu is here in building

which you have already searched.

Thereafter, I asked Krishan kumar to make a call again to Incharge as more than one hour has already been passed. After making call, Krishan Kumar said that Sir, he is reaching in five minutes. After waiting for five minutes or so, I made a call to Incharge Anil Chhillar on his mobile No. 7056000402. He replied that he is reaching with 2-3 minutes as I was out of city.

Incharge Anil Chhillar came there and I asked about the arrest of Sonu and the raid conducted at his residence as per Annexure P-1. Incharge refused regarding arrest of Sonu and asked to show him the orders and Annexure P-1. I had shown the same to him. Incharge said that these photographs are not clear. Advocate said original coloured photographs are lying in her brief. She had shown the original photographs to the Incharge. Then Incharge said that these are old photographs about one and half or two months old. Then I asked that it mean you had conducted the raid and just now you are saying that no raid conducted. He replied that raid was conducted at the residence of Sonu but he was not found present there.

An employee who was also sitting there said to Incharge that Sir, jeep in photograph is Ertiga. This jeep is not with us. I further asked the incharge to show me the documents on the basis of which you had conducted the raid on Sonu's residence. Incharge replied that file is not with him. He made a call to someone seeking FIR number and got noted two FIR numbers. Incharge gave that slip to an employee and directed him to bring copies of these two FIRs. I asked the Incharge what is the relation of these FIRs with Sonu as he is not mentioned in these FIRs. Incharge was completely failed to show any relevancy of these FIRs with Sonu. Incharge said that 'you are giving threats to me. I will record your conversation". Thereafter, he started recording in his mobile. I said to him that you can record our conversation freely without any fear, but it is my duty to ask you for documents relating to this petition.

I further stated him that Hon'ble Mr. Justice Anmol Rattan Singh had already given directions to both the States of Punjab and Haryana to install CCTV cameras in all the police posts/police stations/CIA centers in CRWP No. 5521 of 2021 and CRWP No. 6437 of 2021 to record all the activities of the police stations and recording of the DVRs be kept safe upto 10 months. I further stated that I am demanding relevant documents on the basis which police conducted the raid and you are saying him thief. He replied that no file is with him. The petitioner said that her near and dear saw today at noon her son was sitting in a white colour jeep with CIA Staff. I asked incharge to show me CCTV footage from 22.02.2022 to till now. He replied that cameras are out of order from few months. I asked him as you have made any complaint to higher authorities in this regard. Incharge again failed to supply me

any document in this regard. In the last, I asked him that “will you get recorded DDR regarding our visit”. Upon this, he called the munshi with Roznamacha. Sh. Pawan Kumar ESC 939/PPT had written DDR No. 8 dated 25.02.2022 (Flag-A) in which he had written that Sonu is wanted in FIR No. 472 dated 20.12.2021, PS Industrial Sector 29, Panipat (Flag-B) and FIR No. 343 dated 04.06.2021, PS Chandni Bagh, Panipat (Flag-C). He has not been arrested and petitioner alongwith warrant officer searched all the rooms of CIA-III center and Sonu S/o Sugad is not found present. In DDR written at 09.06 PM, a note has been given that CCTV cameras are out of order from few months.

Thereafter, I demanded a copy of said DDR and asked the Incharge to kindly direct the Munshi to supply the documents early as I have to go back to Chandigarh. Incharge replied in taunting way that here is no airport otherwise he will get book your flight for Chandigarh. After few minutes, Munshi supplied me copy of DDR without CIA stamp. I told him to stamp all the documents. After received the documents, we came out of CIA-III Center. When we reached near highway, Advocate received a telephonic call that a white colour Balero Jeep is chasing your car in which CIA staff members are sitting. Advocate asked the taxi driver to stop the car and parked the same under the bridge. Advocate replied to the caller that she has to take dinner and go back to Delhi. The caller guided her not to stop there and asked to come on the highway for dinner. The jeep was still chasing our taxi. We crossed Gharounda and after about 2 Kms, there was a hotel namely Pearl on the highway where there was a great rush. We parked our taxi there. We took dinner there and said caller again called the advocate that the jeep is still behind you so be alert. We took the dinner and heavy rain started there. The petitioner said that she will not go to her village alone as she was under apprehension that CIA staff will take her to CIA Center forcibly. Advocate asked the driver to take slip road wrong backside towards Gharounda and we both will stay there. We went back and dropped both the ladies near Sai Temple, Gharounda. I alongwith taxi driver again started our journey towards Chandigarh.

In the meantime, Incharge Anil Chhillar made a call to me from his mobile No. 7056000402 and said that “Sir here is my friend's hotel, please take dinner there”. I replied him that we already had our dinner. It is my observation that Incharge made a call to check my present location from my mobile and immediately while colour Balero Jeep again started chasing us and tried to stop our taxi forcibly. I told the driver not to stop the car. The taxi driver, who was a young boy, started driving car very fast at the speed of 120 KMPH. I told him take left side wrong pass from the trucks. Then jeep driver started to

blow hooter of his jeep and jeep came parallel to us and employee who was sitting in back seat down the window pane and shouted “Gaadi roko”. I told the driver not to stop the car and started zig-zag driving and left the jeep 500-600 meters behind and we took a slip road from the highway. There was pitch-dark and we stopped our car on the bank of the canal near Karnal. We stopped there for about more than half an hour to save ourselves....”

In view of the report received from Warrant Officer, this Court vide order dated 24.03.2022 passed the following order :-

“.....Today, the report of Warrant Officer, namely Shri Bhag Singh Virk, has been placed before this Court.

Glancing through the report, it would be revealed that the Warrant Officer, namely Shri Bhag Singh Virk, appointed by this Court in pursuant to the aforesaid order, was maltreated and even chased by some police officials. With regard to detenue-Sonu, he was stated to be wanted in two FIRs but he has not been named in those FIRs. The facts disclosed by the Warrant Officer in his report would reflect that the CIA Staff, Panipat was having no regard for a Warrant Officer appointed by this Court and misbehaved with him in utter disregard of the order passed by this Court, resulting into inviting the contempt of court proceedings.

In view of the above, the Director General of Police, Haryana, is directed to file his personal affidavit after verifying the facts from the SSP concerned and action taken against the erring officials be also intimated. In case, the affidavit is not filed on or before the next date of hearing, Director General of Police, Haryana shall remain personally present in the Court...”

In compliance of the said order, affidavit dated 25.03.2022 of Shri Prashanta Kumar Agrawal, DGP, Haryana has been filed. The relevant part of the affidavit is as under :-

“ii) That Sonu S/o Sugadh R/O Faridpur, Karnal was apprehended on 02.03.2022 with one stolen four-wheeler Maruti Brezza consequent to which, an FIR No. 66 dated 02.03.2022 u/s 186, 279, 336, 353, 379, 411, 420, 468, 471 IPC PS Sector 13/17 was registered. After his arrest, on same day, he was taken on remand. 4 stolen four wheelers were recovered during his police remand. Further, he was taken on production warrant in FIR No. 472 dated 20.10.2021 u/s 411, 420, 467, 468, 471 IPC Police Station Industrial Sector 29, Panipat on 21.03.2022.

iii) That Superintendent of Police, Panipat has sought statement of Inspector Anil Chillar, In-charge CIA-3, Panipat who stated that he fully respects the authority of the Hon'ble High Court and the warrant officer appointed by the Hon'ble Court. He further stated that there were definitely some heated arguments with the warrant officer. However, the In-charge, CIA-3 Panipat stated that nothing regarding the misbehaviour has been entered in the DD entry recorded by the warrant officer on 25.02.2022 during his visit to the premises of CIA-3, Panipat.

iv) That the warrant officer in his report submitted to the Hon'ble High Court has mentioned that the officials of CIA-3, Panipat not only misbehaved with him but also tried to chase him. In this regard, it has been stated in the affidavit of Superintendent of Police, Panipat that the warrant officer had left at 09.10 P.M. A secret information was received in CIA-3, Panipat that a hard-core criminal Neeraj Chautala, upon whom a reward of Rs. 50,000/- had been announced earlier and was wanted by the police in a murder case, can be apprehended in Karnal. On the basis of secret information, officials of the CIA-3, Panipat left for Karnal immediately around 9:40 PM. On the way, they saw the vehicle of Warrant Officer moving towards Karnal. Since the warrant officer had left the premises of CIA-3 in anger, CIA officials saw an opportunity to tender apology to the Warrant Officer and with an intention to apologise, In-charge, CIA-3, Panipat called the warrant officer on his mobile.

v) That Incharge CIA – 3 has submitted an affidavit of petitioner Bala Devi, wife of Sugadh, resident of Faridpur, Karnal who was also present with the warrant officer during his visit to premises of CIA-3, Panipat on 25.02.2022. The petitioner has stated in her affidavit that she along with her counsel and High Court Officer visited premises of CIA-3 Panipat in the evening. They searched for her son but he was not found there. During their stay, police personnel talked to them in normal manner and no one misbehaved with them.

vi) That after going through statement of In-charge CIA-3 mentioned above and affidavit of the petitioner, the Superintendent of Police, Panipat has ordered a departmental enquiry against Inspector Anil, ASI Sant Ram and ASI Krishan Kumar, 25/PPT vide letter No. 13820-26 dated 25.03.2022. Further, in order to ensure that these police officials do not interfere with the proceedings of the departmental enquiry, they have also been removed from active duty and have been transferred to Police Lines, Panipat.....”

After addressing arguments, learned Counsel for the petitioner

prayed for withdrawal of the present petition. The present petition is dismissed as withdrawn. However, the present matter with regard to the misbehaving with a warrant officer appointed by this Court and utter disregard of the order passed by this Court cannot be let off lightly.

Glancing through the report of the Warrant Officer as well as the affidavit of the DGP, Haryana it seems to be a very unfortunate incident wherein the Officer so appointed by this Court with regard to the illegal detention of detainee was misbehaved by the police officials and the said conduct has undermined the authority and dignity of the Court and not of the Warrant Officer. The affidavit of the DGP, Haryana would indicate that to some extent the incident of hot exchange of words has been admitted by the higher authorities but they have tried to shield their low rank officials who were in helm of the affairs in misbehaving with the Warrant Officer. The high handedness of the said police officials is well seen by their act that the warrant officer was not only misbehaved with but was chased by the police officials in their jeep after he left the premises of CIA-III Staff, Panipat. The police authorities have tried to justify their action by submitting in the said affidavit that the police party on the basis of secret information left the CIA premises to catch hold a hard-core criminal and on the way they saw the vehicle of Warrant Officer moving towards Karnal and only saw an opportunity to tender apology and pacify the Warrant Officer and that was only reason that they chased him in the jeep. Furthermore, in the affidavit there is a mention of the fact that departmental enquiry has been marked against the erring police officials and they have been transferred to Police Lines, Karnal till completion of their departmental

enquiry.

From the affidavit, it is well apparent that the erring police officials have been transferred and a departmental enquiry has been initiated against them.

In the facts and circumstances, the Superintendent of Police, Panipat is directed to ensure that a fair and impartial enquiry is conducted, to supervise the enquiry himself and take it to a logical end.

A copy of this order be sent to the Superintendent of Police, Panipat for requisite compliance thereof.

26.04.2022
kavneet singh

(SANT PARKASH)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No