

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

CWP-8091-2021 (O&M)

Date of decision: 07.11.2023

Surjit Kaur

....Petitioner

Versus

State of Punjab & Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. R.K. Jaswal, Advocate for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Lalit Singla, Advocate for respondent No.4.

Mr. Aakash Manocha, Advocate for respondent No.6.

VINOD S. BHARDWAJ J. (Oral)

Prayer made in the present writ petition is for taking appropriate action against the official respondents, who purportedly arrested the petitioner in violation of Section 46(4) of Cr.P.C.

Reply has been filed by the respondents, as per which the allegations levelled in the present writ petition were enquired into by the authorities and that the enquiry was conducted pursuant to the allegations and the report was submitted by the Superintendent of Police (Headquarter and Security), Patiala, on 19.07.2021. As per the findings recorded in the enquiry, the petitioner – Surjit Kaur threatened to commit suicide in protest against arrest of the other family members.

The behaviour of Surjit Kaur was found prerogative and there was every possibility of her committing suicide or harm to herself and under said exceptional circumstances, she was required to be taken

in custody. All necessary steps for keeping the dignity of the petitioner intact were taken and she was kept in a separate cell/room under surveillance of a Lady Home Guard Paramjit Kaur No.18835. It is, thus, submitted that the action had to be taken in view of the exceptional circumstances, which is noticed above and which is provided under Section 46(4) of Cr.P.C.

Even though, the abovesaid response has been filed in November, 2021, however, no rejoinder/counter-affidavit to the same has been filed. Hence, the contents of the reply and also the report have remained uncontroverted, at this stage.

Counsel for the petitioner has submitted that as disputed questions of fact arise in the present petition, he may be permitted to withdraw this petition so as to enable the petitioner to pursue her alternative remedy, in accordance with law.

The respondents have no objection to the same without prejudice to their rights.

Disposed of as not pressed with liberty to the petitioner to pursue the alternative remedy, in accordance with law, if so advised.

(VINOD S. BHARDWAJ)
JUDGE

07.11.2023
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No