

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-60769-2023 (O&M)
Date of order: 05.12.2023

Devi Lal
... Petitioner(s)
Versus
State of Punjab & another
...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Ranbir Singh Sekhon, Advocate
for the petitioner(s).

Ms. Swati Batra, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
55	28.4.2021	Special Task Force, District Ferozepur	23, 29, 59 NDPS Act and Section 13(2) of the Prevention of Corruption Act, 1988 (Amended Act, 2018).

1. Seeking quashing of the FIR, captioned above, the petitioner who has been arraigned as an accused in the said case, has come up before this Court by filing the present petition under Section 482 CrPC.
2. As per the facts of the case, as narrated in the petition itself, the allegations are that on 10.01.2021, the Ferozepur police arrested one Malkit Singh along with 100 grams of heroin and thereby, FIR No.4 dated 10.1.2021 under Section 21 NDPS Act was registered at Police Station Cantt. Ferozepur. During interrogation, the police got further information and registered another FIR No.122 dated 3.10.2020 under Section 21 NDPS Act against one Sikandar Singh @ Sonu and recovered 260 grams of heroin from him. During investigation, Sikandar Singh disclosed that Malkit Singh had supplied the said heroin to him and as such, Malkit Singh was added as an accused in this FIR also. The investigation further revealed that last year, Malkit Singh and one Sukhchain Singh had smuggled two bottles of heroin of 700 ml each. Malkit Singh also disclosed that the petitioner who was posted in the Special Task Force, Ferozepur was well known to him and the petitioner was well aware that he smuggles heroin from

Pakistan. According to Malkit Singh, the petitioner had told him that he was a senior police officer and under his patronage, he can do smuggling and nobody can stop him. However, he will have to divide the income from such transactions in equal share. Based on this information, the present FIR, captioned above, was registered against the petitioner on 28.4.2021.

3. Petitioner is aggrieved of the allegations leveled against him on the ground that said Malkit Singh had falsely and intentionally implicated him, because during his service, the petitioner had apprehended many smugglers and number of cases were got registered by the petitioner under the NDPS Act.

4. In paragraph 5 of the petition, it has been submitted that an application was filed by the petitioner to Director General of Police, Punjab on 1.7.2021 and on his application an SIT was also constituted, however, nothing was enquired into or investigated and same is still pending.

5. Petitioner's counsel referred to Sections 8, 23 and 29 NDPS Act and submits that there is not an iota of evidence against the petitioner as far as the allegations leveled against him are concerned.

6. It would be appropriate to refer to paragraph 9 of the petition, which reads as under:-

"9. That it apparent to mention here that said Malkit Singh in the presence of Sh. Satnam Singh s/o Tehal Singh r / o Village Hjara Ferozepur, Roop Singh s / o Kishan Singh r / o Village Bhakda Ferozepur, Gurdeep Singh s / o Virsa Singh r / o Village Rajo Ke Gatti, Ferozepur, Baaj Singh s / o Sahib Singh r / o Village Tendi Wala, Ferozepur, Shinda Singh s / o Balvir Singh r / o Village Chak Hamad, Ferozepur gave an affidavit on dated 25.05.2023 and affirmed that when on dated 25.01.2021 he was in Judicial custody in Central Jail Sri Muktsar Sahib in the FIR No.122 dated 03.10.2021 u/s 21,61,81 of N.D.P.S Act registered at Police Station S.T.F., Phase-4 Mohali, Chandigarh, he was brought by Inspector Jaswinder Singh In-charge, STF Ferozepur Range to the office of STF Ferozepur and third degree torture was accorded to him to furnish the statement against the petitioner and in the fear of third degree torture, the statement was transcribed by him on the directions of Inspector Jaswinder Singh and there is no truth in the statements adduced by him. Thus it prima-facie from the notary attested affidavit of Malkit Singh that petitioner is arraigned falsely in the alleged FIR. A copy of the Affidavit of Malkit Singh is attached herewith as Annexure P-3 for the kind perusal of this Hon'ble Court."

7. Petitioner's contention is that just a few days before his retirement, respondent no.2 had falsely implicated him in two false criminal cases and in one such case, closure

report has been filed. The present case is intentionally being delayed because of interference of respondent no.2- AIG Snehdeep Sharma.

8. State’s counsel submits that investigation is going on into the matter and in such a serious matter, FIR should not be quashed. She further submits that in case the petitioner is innocent, certainly no injustice would be done to him, which is evident from petitioner’s own case that out of the two criminal cases, cancellation report has been filed in one case, which shows the honest working of the concerned police department.

9. In addition to hearing counsel for the petitioner, I have also gone through the petition. The petitioner himself states that he had made a representation to Director General of Police, Punjab, which is pending. He has annexed the said representation as Annexure P-2. Since investigation is still pending, it is not a case of quashing. However, considering the serious nature of allegations against respondent no.2 and the contents of paragraph 9 of the petition, the present petition is disposed of, with a direction to Director General of Police, Punjab to decide the representation Annexure P-2 in accordance with law within three months from today, either himself or by appointing an IPS officer not below the rank of respondent no.2. Liberty is reserved to the petitioner to approach this Court in case need arises.

Petition disposed of. All pending applications stand closed.

(ANOOP CHITKARA)
JUDGE

December 05, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No