



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 7757 of 2024 (O&M)
Date of Decision: 07.05.2024

National Investigation Agency

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sukhdeep Singh Sandhu, NIA, Special Prosecutor,
for the petitioner.

Mr. Rahul Jindal, Assistant Advocate General, Punjab
for respondent No. 1.

HARKESH MANUJA, J. (ORAL)

Petitioner-National Investigation Agency (**for short “NIA”**), by way of present petition filed under Section 407 Cr.P.C., seeks transfer of entire original judicial records, dockets, case property, custody of accused etc. in case FIR No. 92 dated 20.08.2021, registered under Sections 13, 16, 17, 18 & 18-B of Unlawful Activities (Prevention) Act, 1967; Sections 4 & 5 of Explosives Substances Act; Sections 25 (1AA), 54 & 29 of Arms Act; and Section 13 of Punjab Travel Professional Act, registered at Police Station Sadar Phagwara, District Kapurthala, from the Court of learned Additional Sessions Judge, Kapurthala to NIA Special Court, Mohali (Punjab).

[2] In the present case, at the first instance, Punjab Police registered an FIR No. 85 dated 25.08.2021 under Sections 18/21/23/29 of NDPS Act, 1985; Section 25 of Arms Act; Sections 4 & 5 of Explosive Substance Act and Sections 13/18/20 of Unlawful Activities (Prevention) Act, 1967, at

Police Station Mamdot, District Ferozepur, against the accused Darvesh Singh, his father Anokh Singh, besides 5-6 unidentified persons being actively involved in smuggling of weapons, explosive materials and narcotic substances from across Indo-Pak border via Punjab and Rajasthan area.

[3] Subsequently FIR No. 92, dated 20.08.2021, under Sections 13, 16, 17, 18 & 18-B of Unlawful Activities (Prevention) Act, 1967; Sections 4 & 5 of Explosives Substances Act; Sections 25 (1AA), 54 & 29 of Arms Act; and Section 13 of Punjab Travel Professional Act, was registered at Police Station Sadar Phagwara, District Kapurthala, against the accused Gurmukh Singh (respondent No. 2) and Gagandeep Singh (respondent No. 3) for allegedly smuggling and possessing Arms and Ammunitions, Hand Grenades, Narcotics, Explosive Material, Tiffin Bombs etc. In the said FIR, the investigation was concluded by the Punjab Police and the challan was filed before the competent Court at Kapurthala.

[4] Later, in pursuance to an order dated 05.11.2021 (Annexure P-3) issued by the Govt. of India, Ministry of Home Affairs, while exercising the powers conferred under sub-Section (4) of Section 6 read with Section 8 of the National Investigation Agency Act, 2008, investigation in FIR No. 85 dated 25.08.2021 (supra) was taken over by the NIA, having registered RC-31/2021/NIA/DLI dated 06.11.2021.

[5] In addition, pursuant to an order dated 25.03.2022 (Annexure P-7) again issued by the Govt. of India, Ministry of Home Affairs, while exercising the powers conferred under sub-Section (5) of Section 6 read with Section 8 of the National Investigation Agency Act, 2008, the investigation relating to FIR No. 92 dated 20.08.2021 (supra), was also taken over by the NIA, treating it to be a continuing offence in relation to previous FIR No.

85, dated 25.08.2021 and as such, in the aforementioned facts and circumstances, once the final report was presented by the NIA in relation to RC-31/2021/NIA/DLI dated 06.11.2021 before the NIA Special Court, Mohali, regarding the two accused involved in FIR No. 92 dated 20.08.2021 (supra) as well, the present petition has been filed with the prayer as mentioned above.

[6] I have heard learned counsel for the parties and gone through the paper-book.

[7] A perusal of record shows that RC-31/2021/NIA/DLI dated 06.11.2021, which was got registered in terms of two separate orders dated 05.11.2021 (P-3) & 25.03.2022 (P-7) passed by the Govt. of India, Ministry of Home Affairs, in exercise of powers conferred under Section 6 read with Section 8 of the National Investigation Agency Act, 2008, the investigation already stands concluded at the hands of NIA and the final report has been presented before the NIA Special Court, Mohali. As per statutory mandate, the trial has to take place in the aforesaid FIRs at Mohali, as such, it would be desirable and practical to order transfer of the entire original judicial records, dockets, case property, custody of accused etc. in case FIR No. 92 dated 20.08.2021 (supra), from the Court of learned Additional Sessions Judge, Kapurthala to NIA Special Court, Mohali (Punjab), and thus, in the interest of justice, the same is ordered accordingly.

[8] The petition stands **disposed off**.

May 07, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No