



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

**CRM-M No.25908 of 2023 (O&M)
Date of Decision: 20.08.2024**

Lakhwinder Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. A.K.Walia, Advocate for the petitioner.

Mr. T.P.S.Walia, AAG, Punjab for respondent Nos.1 to 5.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (*for short 'Cr.P.C. '*), *inter alia*, for transferring the investigation of FIR No.49 dated 12.04.2023, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) [Section 29 NDPS Act added later on], registered at Police Station Doraha, District Ludhiana to some independent Agency outside the State or to a senior Officer of the Crime Branch.



(2) Above FIR was registered by *de facto* complainant-ASI Hardam Singh, with the following allegations:-

“Today I, ASI along with ASI Mohan Lal, No. 777/Khanna, PHG Ravinder Singh No. 33499 was present near Malipur Pump Service Road in connection with Mobile Nakabandi in Government Vehicle Bolero No. PB-10-FV-0463 driven by ASI Manjeet Singh No.770/Khanna, conducting checking of suspicious persons and suspicious vehicles during mobile nakabandi. At about 12.15 A.M. one canter came from the side of Khanna through the service road which was given a signal by myself ASI and colleagues to stop for checking, upon which the canter driver suddenly turned the canter towards the open space leading to petrol pump. Thereafter, I, ASI along with colleagues went near the canter whose number was PB-08-EQ-3457 make Ashoka Leyland 06 tyre. Then I, ASI directed the canter driver and the person sitting with him to get down from the canter and they were asked to disclose their names and addresses, whereupon the canter driver disclosed his name as Maninder Singh alias Money S/o Manjeet Singh resident of village Kadon PS Doraha District Ludhiana and the second person disclosed his name as Jaswant Singh S/o Late Hardev Singh resident of House No. 775 ward No. 75, Dhandari Khurd, District Haryana. I ASI introduced myself to them that I am ASI Hardam Singh No.86/Khanna posted as investigating Officer at PS Doraha and I am wearing uniform of my Rank which is having my name plate. I suspected the presence of some illegal article/intoxicant material in the canter and that I wanted to conduct the search the canter in their possession. But you have a legal right as per law to get search of the canter conducted before Magistrate or a gazetted officer who can be called at the spot or you and your canter can be taken



before them, whereupon both the young persons after thinking for a while stated that they had faith in myself and that I could conduct the search of the canter. Accordingly, their consent memos were separately recorded U/S 50 NDPS Act. The consent statements were signed by Maninder Singh & Jaswant Singh and were also signed by witnesses. Then I, ASI made efforts to join a private witness in the Police party but every person expressed his inability; went away from the spot and did not join the police party. Then I, ASI in the presence of the colleagues formally conducted the search of the above numbered canter and from the search of the canter, one plastic bag of white color below the cabin seat of the canter was recovered which was taken out of the cabin and brought down. The mouth of the plastic bag carrying some weight was opened, out of which poppy husk was recovered which was weighed after arranging a standing computerized weight scale and the recovered poppy husk along with plastic bag was found to be twelve kilograms. The recovered poppy husk was converted into a parcel which was sealed by myself with my seal impression HS. Specimen of seal was prepared. The seal after use was handed over to ASI Mohan Lal no. 777/Khanna. Thereafter, the parcel containing twelve kilograms poppy husk sealed with my seal impression HS, Specimen of seal impression and canter no. PB-08-EQ-3457 along with RC was taken into possession while separate recovery memo which was attested by witnesses. Maninder Singh alias Money and Jaswant Singh above said by keeping 12 K.G. of poppy husk in their possession have committed offence U/S 15/61/85 NDPS Act. Therefore, a Ruka is sent to the Police Station through PHG Ravinder Singh No. 33499 for registration of a case against Maninder Singh alias Money and Jaswant Singh. After registering the case, number of FIR



may be intimidated. Information may be sent to the officers on DCR Khanna. Special reports may be dispatched. I, ASI along with colleagues are present at the spot for investigation.”

(3) Contends that petitioner is the President of Tempo Union, Doraha, District Ludhiana (*for short ‘Union’*) and having five Tempos registered with the aforesaid Union. Also contends that respondent No.6, who is the sitting local MLA from Ruling Party, pressurized the petitioner to appoint respondent No.8 as Chairman of the Union and also to authorize him to operate its Bank account along with petitioner. Further contends that when petitioner did not oblige respondent Nos.6 & 8, they felt annoyed and falsely implicated the petitioner in present case on the basis of statement dated 27.04.2023, made by one Jagjit Singh s/o Bhag Singh, Ex-Sarpanch of Village Jaspalon, Police Station Sadar, Khanna, District Ludhiana under Section 161 Cr.P.C. Still further contended that there is no recovery alleged against the petitioner; nor any incriminating material has been recovered during investigation and report under Section 173 Cr.P.C. has already been presented against co-accused Maninder Singh @ Mani & Jaswant Singh before the Court of competent jurisdiction. Lastly contended that petitioner is being unnecessarily harassed just to pressurize him for induction of respondent No.8 as Chairman of the Union, at the behest of respondent No.6 by the police. In support of his contentions, learned Counsel has relied upon interim order dated 31.07.2023, passed in **CRM-M-28092-2020**, titled as **“Parul @ Rubal Versus State of Haryana and others”**.



(4) *Per contra*, learned State Counsel, while opposing the prayer, submits that during investigation, petitioner was nominated as an accused on the basis of statement dated 27.04.2023 made by one Jagjit Singh and investigation against him is still going on. Further contended that petitioner as well as his father-Swaran Singh made representations dated 08.05.2023 (P-5) and 03.05.2023 (P-4), respectively, before Senior Superintendent of Police, Police District Khanna, alleging his (petitioner's) false implication; but after inquiring the same, above representations were found to be without any substance by Deputy Superintendent of Police, Payal vide reports dated 03.07.2023 (R-1) and 10.08.2024 (R-4 in the connected petition i.e. CRM-M-42418-2023). Again submitted that from perusal of both the reports, submitted by the DSP, *prima facie*, complicity of petitioner is well apparent and moreover, investigation is still going on. Thus, at this stage, no interference is required by this Court while entertaining the present petition under Section 482 Cr.P.C. for transferring the investigation of the FIR in question to some independent Agency.

(5) Heard learned Counsel for the parties and perused the paper-book.

(6) Concededly, petitioner was not named in the FIR; rather during investigation, he has been nominated on the basis of statement dated 27.04.2023 made by one Jagjit Singh under Section 161 Cr.P.C.

(7) Also discernible from the paper-book that petitioner as well as his father made two separate representations to the Senior Superintendent of



Police, Police District Khanna, alleging his false implications at the behest of respondent Nos.6 & 8 due to some dispute regarding the affairs of Union; but after inquiring the same, both the representations were found to be without any basis by the Deputy Superintendent of Police, Payal vide reports dated 03.07.2023 and 10.08.2024. For reference, the relevant part of the report dated 10.08.2024 is extracted hereasunder:-

“During the course of investigation, Jagjeet Singh son of Bhag Singh resident of Jaspalo, Police station Sadar Khanna District Ludhiana has joined the investigation with ASI Hardam Singh and got recorded his statement under section 161 Cr.PC to the effect that as he works as a property dealer, he has a lot of eloquence in the area of Doraha and nearby areas. He knows Maninder Singh alias Mani son of Manjeet Singh resident of Village Kaddo Police station Doraha District Ludhiana since long. Maninder Singh is habitual of eating poppy husk and he used to bring poppy husk from other states in the truck. On 11.04.2023 also, Maninder Singh alias Mani came back to Punjab after loading goods in a vehicle from a other state and also brought poppy husk in the canter. Out of which he kept some poppies for himself and remaining poppy husk had to give his fellow driver Lakhwinder Singh alias DC son of Swaran Singh resident of Jaipura Police station Doraha District Ludhiana and who had to sell these poppy husk to his acquaintances and divide the profit among themselves. On the basis of statement of Jagjeet Singh above, ASI Hardam Singh nominated Lakhwinder Singh alias DC son of Swaran Singh resident of Jaipura Police station Doraha District Ludhiana as an accused and offence under section 29 of NDPS Act was enhanced in the present case. Sub Inspector Vijay Kumar, Station House Officer Police station Doraha has prepared challan in the present case on 10.06.2023 against accused



Maninder Singh alias Mani and Jaswant Singh and was presented before the court on 24.07.2023 and trial is pending. Accused Lakhwinder Singh alias D.C. is yet to be arrested.

Details of evidence came on record against accused Lakhwinder Singh alias D.C.:-

- (1) Jagjeet Singh son of Bhag Singh resident of Jaspalo, Police station Sadar Khanna District Ludhiana has got recorded his statement under section 161 Cr.PC before the Investigating officer that Maninder Singh alias Mani is habitual of eating poppy husk. On 11.04.2023 also, Maninder Singh alias Mani came back to Punjab after loading goods in a vehicle from a other state and also brought poppy husk in the canter. Out of which he kept some poppies for himself and remaining poppy husk had to give his fellow driver Lakhwinder Singh alias DC son of Swaran Singh resident of Jaipura Police station Doraha District Ludhiana and who had to sell these poppy husk to his acquaintances and divide the profit among themselves.***
- (2) During the course of investigation, it has been found that the accused Maninder Singh and Lakhwinder Singh had many conversations on mobile phones before and on the day of the incident and shortly before Maninder Singh was arrested. From which it is proved that Lakhwinder Singh alias DC. Bhalibhant already knew and was waiting for Maninder Singh alias Mani to reach Doraha. In this regard, from perusal of the call details of their phone numbers and the accused Maninder Singh alias Mani himself has admitted that he had a phone conversation his Lakhwinder Singh alias DC.***



(3) Swaran Singh son of Ram Singh has moved application bearing 155477/P.G.D. no. dated 03.05.2023 and Lakhwinder Singh alias D.C. son of Swaran Singh resident of Jaipura Police station Doraha moved application bearing no. 176835-P.G.D. dated 06.06.2023 before the Senior Superintendent of Police Khanna, for the innocence of Lakhwinder Singh alias D.C. in the present case and the same were investigated by Sh. Harsimrat Singh Shetra, PPS the then Deputy Superintendent of Police Payal and during that Maninder af Singh alias Mani had admitted that Lakhwinder Singh alias D.C. is habitual of eating poppy husk and he had a phone conversation with Lakhwinder Singh alias D.C.

On which, after secret and open investigation conducted by Sh. Harsimrat Singh Shetra, PPS the then Deputy Superintendent of Police Payal, has written that Lakhwinder Singh alias D.C. is culprit. (Photocopy of their report bearing no.1153/5A, reader dated 03.07.2024 is enclosed herewith).

Report is submitted for your perusal and further appropriate order.

Sd/-
Deputy Superintendent of Police.
Payal.
Dated 10.08.2024”

A bare perusal of the conclusion, recorded by DSP in the aforesaid report, reveals that co-accused Maninder Singh @ Mani & petitioner-Lakhwinder Singh @ DC are habitual of consuming poppy husk and petitioner is a culprit in this case.



(8) Also noteworthy that contraband was brought by co-accused Maninder Singh @ Mani & Jaswant Singh from outside Punjab in a Canter bearing registration No.PB-08-EQ-3457 on 12.04.2023 and petitioner was in constant touch with the aforesaid co-accused at relevant point of time.

(9) It is matter of record that report under Section 173 Cr.P.C. has already been submitted against co-accused Maninder Singh @ Mani & Jaswant Singh; but investigation qua petitioner is still going on.

(10) The order dated 31.07.2023, passed in **Parul's** case (*supra*), cited by learned Counsel for the petitioner, is not helpful for the reason that in the said case, an order dated 17.09.2020 was passed by the Coordinate Bench, directing Superintendent of Police, Ambala to investigate the matter “personally” and to associate the petitioner (therein). Instead of inquiring the matter personally, Superintendent of Police, Ambala constituted a Special Investigation Team. In those circumstances, the Coordinate Bench ordered for investigation by some senior IPS Officer from the Crime Branch; but in the present case, situation is entirely different and as already noticed, two representations at the instance of petitioner & his father have already been inquired by the DSP, Payal. Moreover, the investigation cannot be transferred in routine merely on asking of a party unless there are circumstances warranting such a course in the interest of justice.

(11) In view of the above discussions, no ground is made out to entertain the present petition for transferring the investigation of FIR in question to some independent Agency “at this stage”.



- (12) Consequently, there is no option except to dismiss the petition.
- (13) Ordered accordingly.
- (14) The above observations be not construed as an expression of opinion on merits of the present case in any manner.
- Pending application(s), if any, shall also stand disposed off.

20th August, 2024
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes