

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

CRM-M-26550-2024 (O&M)
Date of Decision: 07.06.2024

NAVEEN DABAS @ BALI

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ankit Karna, Advocate
for the petitioner.

Mr. Manish Dadwal, A.A.G., Haryana.

HARSH BUNGER, J. (ORAL)

Petitioner has filed this petition under Section 482 of the Code of Criminal Procedure, for quashing/setting aside the impugned order dated 13.05.2024 (Annexure P-2) passed by learned Judicial Magistrate Ist Class, Rohtak, whereby the application for issuance of production warrants against the petitioner moved by the Investigating Officer in case FIR No.217 dated 30.09.2022 (Annexure P-1) under Sections 120-B, 307, 201 of the Indian Penal Code read with Section 34 IPC and Section 25 of the Arms Act, 1959 registered at Police Station Bahu Akbarpur, District Rohtak, has been allowed and production warrants have been issued against the petitioner in the name of Superintendent, Central Jail No.2, Tihar, New Delhi.

2. Briefly, the case of the petitioner is that he has been falsely implicated in number of criminal cases and he has been in judicial custody since the year 2011 and presently, he is confined in Central Jail No.2, Tihar,

New Delhi. It is stated that one case FIR No.217 dated 30.09.2022 (Annexure P-1) was registered under Sections 120-B, 307, 201 of the Indian Penal Code read with Section 34 IPC and Section 25 of the Arms Act, 1959 at Police Station Bahu Akbarpur, District Rohtak; on the basis of the complaint/statement of one Gagan Singh s/o Bijender. Said FIR is stated to be lodged against un-known persons.

2.1 It transpires that the Court of Judicial Magistrate Ist Class, Rohtak (in short 'the JMIC, Rohtak') passed an order dated 08.01.2024 whereby, production warrant was issued against the petitioner in the afore-said case FIR No.217. The afore-said order dated 08.01.2024 passed by the JMIC, Rohtak came to be challenged by the petitioner before this Court by way of filing a petition bearing **CRM-M-9866-2024**, which was dismissed by this Court vide order dated 29.02.2024.

2.2 It is the pleaded case of the petitioner that on 13.01.2024, the Court of JMIC, Rohtak, issued a production warrant against the petitioner in the afore-said case FIR No.217. Thereafter, vide order dated 17.02.2024, the afore-said Court (JMIC, Rohtak) directed the jail authorities to produce the accused in Court through VC (video conferencing) but contrary to the said order, the police officials went to the jail to take the petitioner physically but somehow, the petitioner was not removed from the jail. It is stated that subsequently, the aforesaid Court issued a further production warrant vide order dated 16.03.2024 and directed the jail officials to produce the accused in the Court on 28.03.2024.

2.2 It transpires that the afore-said order dated 16.03.2024 passed by the JMIC, Rohtak came to be challenged by the petitioner before this Court by way of filing a petition bearing **CRM-M-15605-2024**, which was allowed by this Court vide order dated 05.04.2024 by holding that it was

obligatory for the learned JMIC to pass the order in consonance with Section 267 of the Code of Criminal Procedure (for short 'the Cr.P.C.'), therefore, the order dated 16.03.2024 was set aside; however, liberty was granted to the prosecution to move an application afresh. The relevant observations made in order dated 05.04.2024 in **CRM-M-15605-2024**, read as under :-

“10. In view of the above legal position, there remains no doubt that learned JMIC was fully empowered to issue the production warrant if it appears that petitioner is required for the purpose of investigation in FIR No.217 dated 30.09.2022.

11. However, from bare perusal of the impugned order, extracted in para 2 (supra), it is nowhere discernible that petitioner is an accused in FIR No.217 dated 30.09.2022 and/or that he is required for investigation in that case; rather the impugned order is completely silent in this regard.

Since issuance of production warrant entails serious consequences; therefore, it was obligatory for the learned JMIC to pass the order impugned in consonance with Section 267 of the Cr.P.C.”

2.3 It appears that after the passing of the order dated 05.04.2024 by this Court in **CRM-M-15605-2024**, a fresh application for production warrants of the petitioner was filed in case FIR No.217; wherein, the following order was passed :-

“Today order dated 05.04.2024 passed by Hon’ble Punjab & Haryana High Court seen and verified. Accordingly, production warrants dated 16.03.2024 quashed by the Hon’ble Punjab & Haryana High Court. However, liberty is granted to prosecution to move an application afresh, if so desired and the same be considered in accordance with law.

Accordingly fresh application for production warrants of accused Naveen @ Bali S/o Narender has been filed in case FIR No.217 dated 30.09.2022 under sections 307, 120B, 201,

34 IPC & 25/27/25(6) Arms Act, P.S. Bahu Akbarpur, Rohtak. Investigating Officer is present and has submitted that the presence of accused is required for the purpose of investigation. Accused Rahul and Aman in their disclosure statements has mentioned that the weapon of commission of the alleged offence was provided by Naveen @ Bali. The said accused is confined in Tihar Jail No.2, Delhi. He has further submitted that there are other heinous cases pending against accused in Delhi NCR and other cities and the investigation in the present case is delaying because of the non-presence of accused. Production warrants against accused has already been issued on 08.01.2024, 13.01.2024 and 17.02.2024. However, the same remained unexecuted. Hence, presence of accused is required for the proper investigation.

Heard. This Court is of considerable opinion that in view of Section 267 Cr.P.C, this Court has power to issue production warrants against any accused for the purpose of investigation if that accused is in custody in any other case. From careful perusal of the police file and documents on record, it is clear from the disclosure statements of accused Rahul and Aman that accused Naveen @ Bali had provided the weapon of offence to the accused Rahul and Aman. Hence for the purpose of proper investigation, presence of accused is required in FIR No.217 dated 30.09.2022 under sections 307, 120B, 201, 34 IPC & 25/27/25(6) Arms Act, P.S. Bahu Akbarpur, Rohtak. Since the production warrants of accused remains unexecuted thrice i.e. on (i.e. on 08.01.2024, 13.01.2024 and 17.02.2024), hence, Superintendent, Central Jail-2, Tihar, New Delhi is strictly directed to produce the said accused on 13.05.2024 in the abovesaid case. The non-production of the accused on the date fixed shall be viewed seriously. The Investigating Officer of this case is also directed to co-ordinate with the Superintendent, Central Jail-2, Tihar, New Delhi.”

2.4 It is borne out from the paper-book that the petitioner challenged the aforesaid order dated 24.04.2024 passed by the JMIC, Rohtak, before this Court by filing a petition bearing **CRM-M-24019-2024**, however, on 13.05.2024, the same was withdrawn by the counsel for the petitioner with liberty to file afresh, if an occasion so arise.

2.5 In the present petition, the petitioner has challenged the order dated 13.05.2024 (Annexure P-2) passed by the JMIC, Rohtak, whereby the application for issuance of production warrant against the petitioner moved by the Investigating Officer in case FIR No.217, has been allowed.

3. Learned counsel for the petitioner submits that the impugned order dated 13.05.2024 (Annexure P-2) is liable to be set aside being unjustified, arbitrary, illegal and perverse. It is submitted that the impugned order has been passed by the trial Court by ignoring the directions issued by the Co-ordinate Bench of this Court in **CRM-M-15605-2024** in its order dated 05.04.2024. It is contended that in the impugned order (Annexure P-2), the purpose for which the production warrant was being issued, is not specified. It is further contended that although the petitioner has no concern with the case FIR No.217; however, as far as, the requirement of the petitioner for the purpose of joining the investigation is concerned, the same can be allowed by granting the permission to interrogate the petitioner in jail or through VC; as the petitioner is a high-risk prisoner and his security would be at stake, if he is removed out of prison. It is also submitted that the petitioner has already been attacked during such police custody when he was taken on remand in the case by CIA, Bahadurgarh and was being taken to Government Medical Hospital for the statutory medical check-up. Accordingly, it is prayed that the impugned order be set aside.

4. It is required to be noticed that the petitioner has filed an application bearing **CRM-24571-2024** in the present petition; whereby, he is seeking setting aside of an order dated 27.05.2024 passed by the JMIC, Rohtak; whereby another production warrant has been issued against the petitioner in case FIR No.217.

5. On the other hand, learned State counsel has opposed the prayer made on behalf of the petitioner by submitting that the production warrants have been issued against the petitioner as he is required for the proper investigation in case FIR No.217. It is further submitted that as regards the apprehension of the petitioner that his security would be at stake, if he is taken out of the prison, the State would ensure proper security for the petitioner. Accordingly, prayer for dismissal of the petition has been made.

6. I have heard learned counsel for the respective parties and perused the paper-book with their able assistance.

7. From the afore-mentioned facts and circumstances, it is apparent that the petitioner has challenged various orders issued by JMIC, Rohtak, whereby the production warrants were issued against the petitioner in case FIR No.217; by filing separate petitions. One such petition i.e. **CRM-M-15605-2024** came to be allowed by the Coordinate Bench of this Court on **05.04.2024** by observing that it is nowhere discernible that petitioner is an accused in FIR No.217 dated 30.09.2022 and/or that he is required for investigation in that case, accordingly, it was held that it was obligatory for the learned JMIC to pass the order in consonance with Section 267 of the Code of Criminal Procedure (for short 'the Cr.P.C.'). Consequently, the order dated 16.03.2024, whereby production warrants

were issued, was set aside; however, liberty was granted to the prosecution to move an application afresh.

7.1 Evidently, in pursuance to the afore-said liberty granted by this Court, the prosecution filed a fresh application, seeking production warrant of the petitioner, which came to be allowed by JMIC, Rohtak by passing a detailed order dated 19.04.2024, wherein it was observed that from careful perusal of the police file and documents on record, it is clear from the disclosure statement of accused Rahul and Aman that accused Naveen @ Bali had provided the weapon of offence to accused Rahul and Aman. Hence, for the purpose of proper investigation, presence of the petitioner is required in case FIR No.217.

7.2 The issue as regards the power of the Court to issue production warrant already stands decided by the Coordinate Bench of this Court on **05.04.2024** on the petition (**CRM-M-15605-2024**) filed on behalf of the petitioner. Further, vide order dated 19.04.2024 (Annexure P-3), the JMIC Rohtak, has passed a detailed order indicating the purpose for which the production warrant against the petitioner was issued in case FIR No.217. Therefore, the contention of the petitioner that the subsequent orders passed by the JMIC, Rohtak, issuing production warrant against the petitioner i.e. order dated 13.05.2024 (as impugned in the main petition i.e. CRM-M-26550-2024) and order dated 27.05.2024 (as attached with CRM-24571-2024) does not specify the purpose for which the production warrant was being issued; is without any merit as the afore-said orders dated 13.05.2024 and 27.05.2024, are in continuity of the earlier detailed order dated 19.04.2024 (Annexure P-3); wherein the purpose for which the production warrant against the petitioner was issued in case FIR No.217, is clearly indicated.

7.3 Further, from a perusal of the petition, it is borne out that there is no serious dispute as regard the requirement of petitioner for the purpose of investigation in case FIR No.217; however, the only concern raised by the petitioner is regarding his security, which can be ensured by issuing appropriate directions.

8. Keeping in view the afore-mentioned facts and circumstances, I do not find any merit in this petition. Accordingly, the same is dismissed. As regards the apprehension of the petitioner that his security would be at stake if he is taken out of prison, a direction is issued to the State of Haryana, to ensure the safety and security of the petitioner, as and when the petitioner is taken out from the prison on production warrants, in relation to the investigation in case FIR No.217.

9. Pending application/s, if any, shall also stand closed.

June 07, 2024
gurpreet

(HARSH BUNGER)
JUDGE

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