



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

CRWP-4940-2024

DECIDED ON: 28.05.2024

KASHMIRI AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Munish Puri, Advocate
for the petitioners.

Mr. Rajiv Verma, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus to release the detenue (Jatinder, Kishan, Rakesh and Sunny sons of Avtar Singh) having been illegally detained by the police officials of PS Sujanpur, District Pathankot and to produce the detenue.

On the previous date of hearing i.e. 24.05.2024, learned State counsel was directed to file a status report in the matter and for that purpose, the hearing of the case was deferred to today i.e. 28.05.2024.

In compliance of the order dated 24.05.2024, a status report by way of an affidavit of Lakhwinder Singh, PPS, Deputy Superintendent of Police (Dharkalan), District Pathankot has been filed on behalf of respondents No.1 to 3 today in Court, which is taken on record. Copy thereof has been supplied to the learned counsel for the petitioners. Relevant part of the said status report reads as under:-

“a) That on 13.04.2024 an information was received that one dead body whose one hand and both the legs are seen out of the grave, in muslim grave yard at village Khadawar, Sujampur, Tehsil and District Pathankot. the information being reliable the inspector/SHO went to the grave yard at village Khadawar and found the dead body in grave whose one hand and both the legs were seen outside and remaining body inside the grave. The body being unclaimed an application dated 13.04.2024 for permission to dig out the body was moved to Sub Divisional Magistrate, Pathankot. On the said application, Naib Tehsildhar, Narot Jaimal Singh namely Sh. Vinod Mehta was appointed as duty magistrate in whose presence the body was taken out of the grave. The body was kept in mortuary house at civil hospital Pathankot till 15.04.2024 for identification. The dead body remained unclaimed even after 72 hours. Then statement of Sh. Rameshwar Singh son of Pritam Singh resident of village Khadawar was recorded and daily diary report number 34 dated 15.04.2024 under section 174 Cr.P.C was entered. On 15.04.2024 ASI Nirmaljit Singh filed an application to SMO Pathankot for post mortem of the deceased dead body. The SMO formed board of doctors and they submitted written report that the dead body is in a bad condition as such its post mortem be got conducted at GMC, Amritsar. ASI Nirmaljit Singh on 16.04.2024 took the body to GMC Amritsar for post mortem. The board of doctors was formed by the director/principal. The report of the post mortem was received on 16.05.2024 by the police. As per the report 20 injuries were found inflicted over the body of the deceased. The cause of death was reported to be HAEMORRHAGE and SHOCK as a result of combine effect of injuries, which is sufficient to cause death in

ordinary course of nature. Then FIR number 57 dated 17.05.2024 under section 302, 201 IPC was registered at police station Sujanpur against unknown persons. Then Inspector/SHO started the investigation and on 17.05.2024 an information was provided by the one informer that the dead body is of Amruti wife of Jatinder resident of Makkowal, police station Dasuya, District Hoshiarpur, Punjab. He further disclosed that she is part of a group basically of Rajasthan and the said group is presently staying near railway station Madhopur, Pathankot and more information can be received from the said group. Thereafter Inspector/SHO Lovepreet Singh went to Madhopur and recorded statement of Puran Singh son of Sarwan Singh resident of village Jawala ji, District Kangra. He disclosed that the dead body is of Amruti Devi and She is murdered by her husband Jatinder due to marital dispute at Lehragaga, Sangrur, Punjab and he had buried the dead body at muslim graveyard Khadawar Sujanpur. Thereafter the DDR number 33 dated 17.05.2024 was registered and Jatinder was arrayed as an accused in the present FIR. He was arrested on 18.05.2024 from Mirthal Pathankot and taken to police remand for 4 days. During police remand he made disclosure statement that on 25.03.2024 he murdered Amruti as they were having four daughters and only one son and he wanted one more son and also she was not of his liking as she is cyclopia (Blind in one eye) as such he had murdered her. He further stated that in order to dispose of the body he was helped by Rakesh, Kishan both sons of Avtar singh and resident of Makkowal and Sunny son of Bishamber resident of Makkowal. Thereafter vide DDR number 30 dated 22.05.2024 Rakesh, Kishan both sons of Avtar singh and Sunny son of Bishamber were nominated as an accused in

the present FIR. Rakesh Kumar and Sunny Kumar were arrested on 22.05.2024 and Kishan son of Avtar Singh is yet to be arrested. The accused Jatinder, Rakesh Kumar and Sunny Kumar are at present lodged at Sub Jail Pathankot after completion of their police remand.

b) That the above said persons are not in danger rather they are accused in the above said FIR. They were never confined in any illegal detention by the police.”

A perusal of the above would depict that the alleged detainee (Jatinder, Kishan, Rakesh and Sunny) are accused in FIR No.57, dated 17.05.2024, under Sections 302, 201 IPC, registered at Police Station Sujampur prior to the filing of the instant petition on 24.05.2024 wherein after production of these persons before the learned Illaqa Magistrate, three are in judicial custody and one namely Kishan is on the run who has not been apprehended so far.

The instant petition has been preferred on 24.05.2024 and the FIR in question was registered on 17.05.2024 wherein the petitioners were booked in a criminal case and they have been taken into legal custody by the police, therefore, the instant petition is not maintainable.

Faced with the situation, learned counsel for the petitioners prays for withdrawal of the present petition at this stage.

Prayer is accepted.

Dismissed as withdrawn.

(SANDEEP MOUDGIL)
JUDGE

28.05.2024

Poonam Negi

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No