



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

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CRWP-6126-2023

Date of Decision : September 16, 2024

KULTAR SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. J.S.Sidhu, Advocate
for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. Through the instant petition filed under Articles 226/227 of the Constitution of India, prayer is made for issuance of directions in the nature of habeas corpus to produce the detainee, who is son of the present petitioner, who according to the petitioner has been illegally detained alongwith many other unidentified young persons on 22.3.2023 from a protect at Gurdwara Sohana Chowk, Mohali in an arbitrary, illegal and unconstitutional manner.

2. Short reply dated 1.8.2023 by way of an affidavit of Harsimran Singh Bal, PPS, Deputy Superintendent of Police (City-II), District SAS Nagar has been filed by the learned State counsel.

3. As per the reply, an information was received about the presence of a dead body of unknown person lying in a tent at the Dharna set up for the release of Sikh Prisoners at YPS Chowk. Thereupon, on dated 25.3.2023, Manjit Singh, alongwith, his father and brother appeared before ASI Amar Nath-respondent No.5 and got recorded their statements to the effect that on dated 24.3.2023, they came to know that his brother Surjit Singh, who had

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joined the Dharna at YPS Chowk few days back, has died and his dead body was decomposed and kept in the mortuary of Civil Hospital, Phase-6. Thereafter, Manjit Singh alongwith his father and brother Sukhwinder Pal Singh saw the dead body of his brother Surjit Singh lying in the mortuary, which was decomposed and its colour had turned black. They did not suspect any person for causing any unnatural death in the said occurrence and their family did not want any legal action but requested for DNA testing. Based upon the aforesaid statement of Manjit Singh, proceedings under Section 174 Cr.P.C. were conducted vide DDR No.12 dated 25.3.2023, registered at Police Station Phase-8, District SAS Nagar. The post-mortem of the dead body was got conducted from the board of Doctors of Civil Hospital and the viscera was sent for examination to the office of Chemical Examiner, Punjab. The opinion regarding the cause of death has been sought from the board of Doctors, the report of which opined that in view of the reports and decomposed state of body of deceased, no definite opinion regarding cause of death can be given. The DNA sample of Manjit Singh were obtained and sent for DNA test examination with the DNA of the deceased to the CFSL, Sector-36, Chandigarh, the report of which confirmed Manjit Singh to be the biological brother of the deceased Surjit Singh. The copy of the DNA is attached as Annexure R-1. The dead body of the deceased was also cremated by the present petitioner and their relatives on dated 24.3.2023.

4. Learned counsel for the petitioner submits that infact the inquest report and the post-mortem report have never been supplied to the petitioner, therefore, he cannot confirm, whether, the person, who was cremated by him and his family members was infact Surjit Singh or not. He also submits that the DNA samples of the deceased were not taken in the presence of the family members, whereas, the DNA samples of the brother of the deceased were taken on 5.4.2023.

5. The issue, which has been raised by the learned counsel for the petitioner, that too, after filing of the short reply is not substantiated by any



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documentary evidence, therefore, this Court cannot adjudicate the disputed questions of facts under the writ of habeas corpus.

6. Learned counsel for the petitioner submits that he may be given liberty to withdraw the instant petition to avail the alternate remedy, as available under the process of law. He also made a prayer that a direction may be passed upon the respondent-State, to supply the copies of the post-mortem report and the inquest report, as stated to be conducted by the prosecution agency.

7. The prayer made by the learned counsel for the petitioner is innocuous and bonafide, therefore, the same is accepted.

8. The instant petition is ordered to be **dismissed** as withdrawn, however, with the asked for liberty. The mandamus is also passed upon the State to supply the copies of the inquest report, as well as the post-mortem report, to the petitioner within 15 days from today, against acknowledgment.

9. **Disposed** of accordingly.

September 16, 2024

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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No