

CRWP-6686-2024

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-6686-2024
Reserved on: 13.08.2024
Pronounced on: 30.08.2024

Vinay Kumar ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Karnesh Verma, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

ANOOP CHITKARA, J.

1. Aggrieved by the illegal detention of four persons and their illegal confinement by the police, the petitioner has come up before this Court by filing the present petition under Article 226 of Constitution of India, for issuance of writ in the nature of habeas corpus.
2. I have heard counsel for the parties and gone through the record and its analysis would lead to the following outcome.
3. The petitioner's case is that his son Rohit Sharma along with three boys namely Saluja, Mani and Khushi, were detained by the officials of Police Station Tripuri on 11.07.2024 at 6.30 PM and they were not produced before the Illaqa Magistrate/Duty Magistrate within 24 hours which is violation of Section 58 of Bharatiya Nagarik Suraksha Sanhita 2023. Petitioner further alleged that police officials had deleted the DVRs of the cameras installed at the shop from where the detinue Rohit Sharma was taken away.
4. The concerned DySP has filed its reply and it would be appropriate to refer to paras 2 to 6 of the said reply, which reads as follows:-

“2. That it is respectfully submitted that one case/FIR No. 173 dated 12.07.2024 under Sections 109, 126(2), 115(2), 191(3), 190 and 350 of The Bharatiya Nyaya Sanhita (BNS), 2023 was registered at Police Station Tripuri pursuant to the statement of Jaswinderpal Singh against Amarinder Captain, Mani, Rohit, Khushi, Saluja and 4/5 unknown persons with the allegations that on 10.07.2024 at about 07:15 AM, he was going to Gurudwara and when he reached near park near his house, then 8-9 youngsters having covered faces came on 3 motorcycles and stopped near

him. The youngsters sitting on the back of the motorcycles were carrying iron rods and sticks. One of the motorcycle was having number PB-11-DE-2299 and three youngsters were sitting on it and the one sitting at the back alighted from the motorcycle and told the complainant that he was known with the name of Amrinder Captain and then he raised Lalkara while naming accomplices Mani, Rohit, Khushi and Saluja that he (complainant) should not be left alive and he will pay for interfering in the possession of plot at the backside of his house taken by Savinder Singh Chadha. Thereafter, Amrinder Captain, with the intention to kill, gave an iron rod blow on the person of complainant and other youngsters also attacked the complainant with the iron rods and sticks held by them. In order to save himself, complainant took both his hands at front, due to which, his right arm, thumb and finger of left hand were hit. By raising hues and cry, the complainant tried to escape from the aforesaid assailants but they again surrounded him and pushed him on the ground and gave many blows with their iron rods and sticks. They also gave fist blows on the person of complainant. Upon raising hues and cry, Gurpreet Singh, son of complainant and other passerby people reached at the spot, due to which, the aforesaid assailants left the spot alongwith the weapons on their respective motorcycles. Hence, present case/FIR was registered against the aforementioned Amarinder Captain, Mani, Rohit, Khushi, Saluja and 4/5 unknown persons.

3. That during the course of investigation, accused Maheer Gauri alias Mani and Khushal Khanna alias Khushi were arrested by the police party between the time period of 06:00 06:15 PM on 13.07.2024 and accused Rohit Sharma alias Bholu was arrested between the time period of 07:00-07:15 PM on 13.07.2024. It is worthwhile to mention herein that after arresting them legally, their fathers were duly informed about their arrest by calling on their respective mobile phones.

4. That it is respectfully submitted that thereafter, the medical examination of accused Maheer Gauri alias Mani, Khushal Khanna alias Khushi and Rohit Sharma alias Bholu was conducted at 02:30 PM, 02:40 PM and 02:50 PM respectively on 14.07.2024 at Mata Kaushalya Hospital, Patiala. The copies of medical reports are annexed herewith as Annexure R-1 to Annexure R-3 for the kind consideration of this Hon'ble Court.

5. That after getting the medical examination of the aforementioned accused, they were presented before the court of Ld. Duty Magistrate, Patiala at 04:20 PM on 14.07.2024, who ordered their judicial remand.

6. That it is respectfully submitted that the minor in conflict with law Jasjot Singh Saluja alias Sehaj was apprehended by the police party on 14.07.2024 and subsequently, his medical examination was got conducted at Mata Kaushalya Hospital, Patiala at 03:40 PM. Thereafter, he was presented before the court of Ld. Juvenile Justice Board, Patiala at 04:50 PM on the same day. The copy of the medical report is annexed herewith as Annexure R-4 for the kind consideration of this Hon'ble Court."

5. Thus, as far as the petitioner's detention is concerned, it was pursuant to the arrest and subsequent remand by the concerned Magistrate.

CRWP-6686-2024

6. Regarding second question that they were not produced within 24 hours before the concerned Judicial Magistrate, which would violate Article 22(2) of Constitution of India and it has been mentioned in para 3 of the reply that petitioners were arrested at 6PM on 13.07.2024 and Rahul was arrested at 7PM on 13.07.2027 and their parents were duly informed about their arrest.

7. In the reply it has been denied that petitioner was illegally detained and in this regard, it would be appropriate to refer to para 8 of the reply, which reads as under:-

“8. That the details regarding arrest of accused, their medical examination and presentation before the Court of Ld. Duty Magistrate is as follows:-

Sr. No.	Name of Accused/Minor	Time and date of arrest	Time and date of Medical Examination	Time and date of representation before Magistrate/juvenile Justive Board
1	Maheer Gauri @ Mani	Date: 13.07.2024 Time 6:00 PM to 6:15 PM	Date 14.07.2024 2.30 PM	Date 14.07.2024 4:20 PM
2	Khushal Khanna @ Khushi	Date 13.07.2024 Time : 6.00 PM to 6:15 PM	Date 14.07.2024 2:40 PM	Date 14.07.2024 4:20 PM
3	Rohit Sharma @ Bholu	Date 13.07.2024 Time 7:00 PM to 7:15 PM	Date 14.07.2024 2:50 PM	Date 14.07.2024 4:20 PM
4	Jasjot Singh Saluja @ Sehaj (Minor)	Date 14.07.2024 Time 3:10 PM to 3:25 PM	Date 14.07.2024 3:40 PM	Date 14.07.2024 4:50 PM
5	Amrinder Captain	Arrest pending	Nil	Nil

8. The petitioner’s counsel further argued that during the custody, petitioner were physically harassed and beaten up, however, the DySP denied such allegations in para 10 of the reply and has annexed their medical records as Annexures R1 to R-4, to support their contentions. Petitioner has also made reference to para 2 & 3 of the application for placing on record some documents i.e. CRM-W-984-2024, which reads as under:-

“2. That the petitioner/applicant wants to place on record the pendrive containing the call records of two calls received on 11.07.2024 and 13.07.2024, wherein on 11.07.2024 Ritesh Khanna, i.e. father of detenue

CRWP-6686-2024

Khushal Khanna received the information of arrest of his son from a boy named Mohit from Mob No: +91-8544850252 at about 09:02 p.m. It is pertinent to mention that he was informed that he was taken to CIA Staff, Patiala.

3. That the call received on 13.07.2024 was from +91-9878731904 from a person named Rana who informed that he has met the detenue Khushal @ Khushi at the premises of CIA Staff, Patiala. The said call was received at 03:08 pm. It was informed on this call that Khushi was being subjected to physical torture.”

9. Although the pen drive has been annexed with the above said application, but in the absence of specific identification of the persons in the pen drive, it is not possible for this Court to come to any conclusion without appropriate inquiry.

10. Given above, in the entirety of facts and circumstances of the case, let the concerned Director General of Police, State of Punjab, conduct the inquiry on the allegations made in this writ petition, either himself/herself or by authorizing and delegating it to any officer holding IPS cadre, by passing speaking and reasoned order in three months and outcome of the inquiry be conveyed not only to the petitioner and detenue but also the petitioner’s counsel Mr. Karnesh Verma. Liberty reserved to the petitioner to approach this Court again, if need arises.

11. Petition is disposed of in the terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

30.08.2024
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.