

2024:PHHC:152161



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

105/1

CRM M-46240 of 2022
Date of Decision:14.11.2024

Sheelo		...Petitioner
	Versus	
The State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Madan Sandhu, Advocate, for the petitioner.
Mr. I.P.S. Sabharwal, DAG, Punjab.
Mr. P.S. Sekhon, Advocate, as Amicus Curiae.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant a regular bail in case FIR No.126 dated 20.06.2022 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sultanpur Lodhi, District Kapurthala.
2. The present case was heard in detail on 20.01.2024 and the following order was passed:-

“In the present case, Sheelo and Mangat Ram @ Mangal have filed two separate petitions i.e.

CRM-M-22937-2023 and CRM-M-46240-2022 under Section 439 Cr.P.C. with a prayer to grant regular bail to them in case FIR No.126 dated 20.06.2022, registered under Sections 22, 29 of NDPS Act, 1985, at Police Station Sultanpur Lodhi, District Kapurthala.

Apart from that, Sheelo has also filed a petition i.e. CRM-M-56665-2022 under Section 482 Cr.P.C. with a prayer to handover the investigation of case FIR No. 126, dated 20.06.2022, under Sections 22, 29 of NDPS Act, registered at Police Station Sultanpur Lodhi, District Kapurthala to some Senior Police Officer or to some other Independent Agency as the police of Police Station, Sultanpur Lodhi had falsely involved them in the present criminal case.

As per the case of the prosecution, a police team headed by ASI Bhupinder Singh was on patrolling duty at about 8.00 p.m. on 20.06.2022 near Rural Basti, Sultanpur Lodhi and in the meantime, two persons were seen coming on a motorcycle. On noticing the police party, driver of the motorcycle had thrown a plastic envelop and the lady, who was a pillion rider, had also thrown the plastic envelop, which was attached with her Salwar. On checking, 310 grams of intoxicating powder was recovered from the envelop, which was thrown by the driver of the motorcycle, whereas 225 grams of intoxicating powder was recovered from the plastic envelop, thrown by the lady i.e. the pillion rider. Accordingly, a case under Sections 22 and 29 of NDPS Act was ordered to be registered against both the petitioners. As per the report of the Forensic Science Laboratory, Alprazolam was detected in the sample

parcel of the intoxicant powder recovered from the possession of the petitioners/accused.

Learned counsel for the petitioner(s) contends that the recovery of the alleged contraband has been planted on both the petitioners. In fact, Sheelo, petitioner had moved an application/complaint to SSP, Kapurthala against Sonia, Vishal, Vicky and ASI Gurdev Singh, who was posted at Police Station Sultanpur Lodhi. Due to the said complaint, the police officials of Police Station Sultanpur Lodhi, namely ASI Amarjit Singh called the accused i.e. Sheelo and Mangat Ram @ Mangal (petitioners) to come to the Police Station for joining the enquiry in an application moved by Sheelo. At about 5.00 p.m. to 5.30 p.m. on 20.06.2022, Sheelo, Mangat Ram @ Mangat alongwith some respectables, namely, Sulakhan Singh, President of Sirmoni Rangreta Dal, Swaran Singh, Numberdar, Krishana Devi, Raj Kumar and others had visited the Police Station, Sultanpur Lodhi. Their visit was captured in the CCTV Cameras, which were installed in Police Station, Sultanpur Lodhi as the whole premises of Police Station was under surveillance. Surprisingly, after reaching the Police Station, both Sheelo and Mangat Ram @ Mangal were taken into police custody and both of them told the police officials that they would file another complaint against the SHO and the police officials of Police Station, Sultanpur Lodhi as they had been illegally detained. The police officials had beaten up both the petitioners in Police Station as well. Learned counsel further contends that the whole incident was recorded in the CCTV cameras, which were installed in Police Station, Sultanpur Lodhi.

After arrest of both the petitioners in the present case, an application was moved by the petitioners before the Special Court (under NDPS Act), Kapurthala and a prayer was made to direct the SHO, Police Station Sultanpur Lodhi, District Kapurthala to preserve the video clips/photographs pertaining to Sheelo as they had been wrongly arrested in the evening on 20.06.2022. A notice of the application was served on the State of Punjab, however, no reply to the said application was filed by the State of Punjab before the Special Court and the application was not contested. Ultimately, the said application was allowed by the Special Court on 03.08.2022 by observing as follows:-

“Since CCTV camera have been installed at the entrance and exit points of the police station for surveillance and there are camera in the police station, the recording of the entry and exit points of the police station Sultanpur Lodhi for 05:00 p.m. to 05:30 p.m. of 20.06.2022 be preserved. The application is not contested and in view of the instructions, since CCTV camera have been installed in the police station, so, the application in hand is accepted and the CCTV camera recordings and the video clips of the entrance and exit points of P.S.Sultanpur Lodhi as well as of police lockup of P.S.Sultanpur Lodhi are ordered to be preserved by the SHO P.S.Sultanpur Lodhi from 05:00 p.m. to 05:30 p.m. of 20.06.2022 and the same be not deleted from the DVRs. This file be consigned to the record room, Judicial, Kapurthala.”

The above said order passed by the Special Court, Kapurthala was never challenged by the State of Punjab

and had attained finality. However, it is also an admitted fact that the CCTV Camera recordings and the video clips of the entry and exit points of Police Station, Sultanpur Lodhi as well as of police lockup of Police Station Sultanpur Lodhi pertaining to the time period from 5.00 p.m. to 5.30 p.m. on 20.06.2022 were not preserved by the SHO, Police Station, Sultanpur Lodhi.

During the course of hearing of these three petitions, various interim orders have been passed by this Court from time to time.

Vide order dated 14.10.2022, the State was directed to file a reply specifically to the assertions made in paras No. 5 to 8 of the petition. In compliance of the said order, a short reply by way of DSP, Sub-Division, Sultanpur Lodhi, District Kapurthala was filed. The averments made in the said affidavit were not only evasive but contemptuous also. It was mentioned in para 8 of the said reply that the Investigating Officer was not in the knowledge of the application filed by Sheelo before the Special Court, Kapurthala on 05.07.2022 for preserving the CCTV footage of 20.06.2022 and had no knowledge with regard to the order dated 03.08.2022 passed by the trial Court, directing the SHO, Police Station Sultanpur Lodhi to preserve the CCTV footdage of Police Station, Sultanpur Lodhi dated 20.06.2022 and consequently, the CCTV footage could not be preserved by him. In fact, before passing the order dated 03.08.2022, the Special Court had already issued a notice to the State of Punjab and the order was passed in the presence of Additional Public Prosecutor for the State, who represented the SHO of the concerned Police Station before the trial

*Court. Rather, just to create a false defence, it was stated that the SHO tried to verify the order dated 03.08.2022 from the trial Court and it transpired that ASI/LR Gurdeep Singh No.1333 posted as Naib Court with the trial Court had failed to provide the information regarding filing of the application of preserving CCTV footage from the date of filing of the said application i.e. 05.07.2022 till 03.08.2022 and the departmental inquiry had been initiated against him. It was further submitted that after getting the password, CCTV footage was checked on 11.11.2022, however, the CCTV footage from the period of 30.10.2022 to 11.11.2022 could be extracted and the CCTV footage dated 20.06.2022 could not be extracted. Apparently, this Court is of the considered opinion that the SHO, Police Station Sultanpur Lodhi had not only violated the order passed by the Special Court, but had also violated the directions passed by the Hon'ble Supreme Court in the matter of **“Paramvir Singh Saini Vs. Baljit Singh and others”, 2021(1) SCC 184; 2021 AIR (Supreme Court) 64.***

After noticing the averments in the aforementioned affidavit dated 23.11.2022, this Court again expressed the displeasure and directed the SSP, Kapurthala to furnish the details with respect to back-up policy adopted by the Department for storing CCTV footage data and centralized server, wherein CCTV footage qua the cameras installed in Police Station Sultanpur Lodhi were stored and also to spell out the modalities to retrieve the same.

In compliance of the order dated 23.11.2022 passed by this Court, an affidavit was filed by SSP, Kapurthala and

the relevant contents of the affidavit were noticed by this Court in the order dated 02.12.2022. The relevant contents be read as under:-

“xx xx xx

13. That it is further respectfully submitted that so far as the issue of CCTV footage storage, its depository and retrieval method/rules is concerned, it is submitted that from the report dated 29.11.2022 obtained from Superintendent of Police (Hq.) Kapurthala cum District nodal officer for that purpose, the following facts has come to light:-

- For storage of CCTV footage of the cameras installed at Police Station Sultanpur Lodhi, 6 TB hard drive is installed in the DVR by the service provider company, which stores data of 30 days.*
- Backup of the CCTV Cameras Footage of 30 days can be stored either in Pen Drive or in Hard Drive with the help of password provided by the Vantage Company.*
- There is no central server to store the footage data of CCTV cameras, the data is stored only in the hard disk in the DVR in offline mode.*
- During checking of the CCTV cameras installed in lock-up and check-in gates (on and exit of Police Station) at Police Station Sultanpur Lodhi, it was found that the CCTV recording is being stored only for 13 days in the DVR. Therefore, the recording (footage) of 20.06.2022 from 05:00 PM to 5:30 PM., can-not be made available due to efflux of time, as 5 months (161 days) have passed since 20.06.2022.*

- *As per information obtained from, Mr. Parveen Nair, Manager, Service Provider Company i.e. Vantage, the data of more than 30 days cannot be retrieved from the 6 TB hard disk. Thus, there is no need to send DVR to FSL Mohali.*

True translated copy of report dated 29.11.2022 is annexed herewith as Annexure R-3/T for kind consideration of this Hon'ble Court.”

*Even the stand taken by the SSP, Kapurthala, was not only evasive, but also in the teeth of directions passed by the Hon'ble Supreme Court in the matter of **Paramvir Singh Saini's case (Supra)**. Again vide order dated 02.12.2022, this Court had directed that the DVR of the concerned CCTV camera be sent to the FSL to see as to whether the footage pertaining to dated 20.06.2022 could be retracted.*

Again, a status report by way of an affidavit of SSP, Kapurthala was filed on 28.01.2023 and on the strength of the report received from CFSL, Chandigarh, it was stated in the affidavit that the NVR and hard disk were examined on 27.12.2022 in CFSL Chandigarh, however, no data/deleted data of 20.06.2022 (5.00 pm to 5.30 p.m.) could be retrieved.

Vide order dated 07.08.2023, this Court again observed that despite a specific order by the Special Court, the CCTV footage was not preserved and the reply filed by SSP, Kapurthala was not satisfactory. At this stage, Mr. P.S.Sekhon, Advocate was appointed as Amicus Curiae to assist the Court in the present case.

Learned Amicus Curiae has referred the status report dated 04.09.2023, submitted by DSP, Sub-Division Sultanpur Lodhi, District Kapurthala and submitted that it has been admitted by DSP, Sub-Division, Sultanpur Lodhi that at the time of registration of the FIR i.e. 20.06.2022, the CCTV footage of police station was preserved for 15 days, however, at present, the CCTV footage was being preserved for one month. Still further, as per the judgment passed by the Hon'ble Supreme Court in the matter of Paramvir Singh Saini's case (Supra), the duty and responsibility for working, maintenance and recording of CCTVs in all the police stations is that of the SHO of the concerned Police Station and it is his duty and obligation to report to the DLOC in case of any fault with equipment or malfunctioning of CCTVs.

In the present case, it is apparent that there are serious lapses not only on the part of the SHO, but also on the part of the District level Oversight Committee as well.

This Court has also reasons to believe that the directions passed by the Hon'ble Supreme Court in the matter of Paramvir Singh Saini's case (Supra) have not been complied by the State of Punjab in the letter and spirit. Accordingly, the Director General of Police, Punjab is directed to file his personal affidavit with regard to the following facts (at State level as well each District level separately):-

(i) Whether the Oversight Committees have been constituted at State Level as well as the District Levels? The names and designations of the members of Oversight

Committees at State Level as well as in each District must be mentioned.

(ii) Whether the CCTV systems have been installed in all the Police Stations, CIA offices, Police Posts in each District. It must be specifically stated that each part of Police Station, Police-Post and CIA are covered and no part of the said institution is left uncovered. It must be specified whether the CCTV cameras have been installed at all entry and exit points, main gate of the police station, all lockups, all corridors, Lobby and reception area, all varandas and all the rooms, which are used by the police officials, hall, outside wash rooms and in the open Police Station compound as well, duty officials room and the back side area of the police station.

(iii) Whether the CCTV footage system is equipped with night vision and consist of audio as well as video footage?

(iv) In case of electricity failure, what arrangement has been made in each of the Police Station,/Police posts/CIA office for supply of electricity to the CCTV system and nature and capacity of such alternative arrangement?

(v) Whether any provision has been made for recording of the CCTV footage in the central server, which shall be maintained at District as well as the State level? Whether the data is stored in DVR/NVR in offline mode only or any arrangements have been made for online storage as well, in addition to that?

(vi) The affidavit must specify as to whether the recording equipments are capable of storage of

recording of 18 months at least? (Main DVR/NVR attached to CCTV systems as well central storage system).

(vii) The number of complaints received from various police stations, police posts, CIA Offices with regard to the fault/malfunctioning of the CCTVs systems, which had already been installed there and the time taken by the DLOC in carrying out the necessary repairs on the said complaint.

(viii) What mechanism has been provided to check the fault/malfunctioning of CCTV system? Whether any periodical inspections have been conducted? Whether any record is maintained at District level (DLOC) in this regard?

In the meantime, Sheelo and Mangat Ram @ Mangal, petitioners are directed to be released on interim bail subject to their furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned”.

3. Learned counsel for the petitioner contends that in compliance of the order dated 20.01.2024 passed by this Court, the petitioner was released on *interim* bail and she continued to be on *interim* bail since then. After the grant of concession of *interim* bail, the petitioner has not misused the concession in any manner.

4. Learned State counsel opposes the submissions made by the learned counsel for the petitioner, however, he is not in a position

to controvert the fact that the petitioner had been misused the concession of bail in any manner.

5. Consequently, the present petition is allowed and the interim order dated 20.01.2024 is made absolute. The petitioner shall continue to appear before the trial Court on each and every date of hearing and shall not remain absent without seeking prior permission of the Court.

6. Needless to observe that the petitioner shall be at liberty to raise all the pleas available to her at the time of trial.

14.11.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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