



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

**CRM-M-18666-2024
DECIDED ON: 21.05.2025**

GURCHARAN SINGH ALIAS CHANNI

.....PETITIONER(s)

VERSUS

STATE OF PUNJAB

.....RESPONDENT(s)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Rahul Kesar, Advocate for the petitioner.

Mr. J.S. Rattu, DAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This petition has been filed under Section 482 Cr.P.C with prayer to set aside order dated 12.03.2024 passed by JMIC, Phagwara (Annexure P-1) vide which application (Annexure P-2) filled by the present petitioner to hand over keys of his Residence/House situated at V.P.O Bohani Tehsil Phagwara, District Kapurthala in FIR No. 71 dated 04.10.2023 under sections 323,324,326,307,302,120-B of IPC registered at P.S Rawalpindi, District Kapurthala has been dismissed.

Learned counsel for the petitioner has argued that the impugned order is totally vague and is against the facts and material available on

record before the JMIC, Phagwara, in as much as the observations to the effect that the house in question wherein the present petitioner was residing was searched and thereafter, put under lock under the orders of this Court. After locking the house, keys were handed-over to the then Sarpanch of village namely Harjit Singh.

A copy of the order dated 19.01.2024 passed in CRWP-291-2024 by this Court has been produced by learned Senior Counsel for the petitioner and the same is perused with his assistance which makes it clear that order was confined to making search of the detainee Harbhajan Singh and the Warrant officer was appointed who conducted raid and submitted the report dated 12.01.2024 in a sealed cover. The said report has been referred to in the order stating that the alleged detainee was not detained by police officials rather he was found with Gurcharan Singh and Manjeet Kaur at the residence of Harpreet Singh s/o Gurdial Singh in village Bohani under the jurisdiction of Police Station Rawalpindi, Phagwara. It is the same premises qua which the dispute has been raised in the instant petition being locked by the police and keys were handed over to the then Sarpanch.

It is in the light of the above said factual aspects having emerged on perusal of the order dated 19.01.2024 and having gone through the written statement filed by learned State Counsel would depict that admittedly after conducting the search by the police, keys were handed over to the then Sarpanch Harjit Singh in the presence of some persons and the videography was made as well but there is no order available on record either passed by the High Court or by any other Court to the extent that after conducting the search to lock the house except in an application moved by

the present petitioner which has been dismissed on absolutely on wrong surmises and misappropriation of the material available on record.

The only order and proceeding by the High Court available is a writ in the nature of Habeas Corpus bearing No. CRWP-291-2024 wherein a warrant officer was appointed to search the detainee Harbhajan Singh qua which warrant officer searched the premises in question and submitted report dated 12.01.2024 before the High Court and on the basis of that report, vide order dated 19.01.2024, the petition categorically dismissed as having been rendered infructuous while observing as under :-

3. *The report dated 12.1.2024 (wrongly mentioned as '12.1.2023) of the Warrant Officer received in a sealed cover. The same is opened and taken on record. A perusal of the report (supra) reveals that the alleged detainee was not detained by the police officials, rather the alleged detainee ie, Harbhajan Singh alongwith Gurcharan Singh and Manjeet Kaur wife of Harbhajan Singh was found present at the residence of Harpreet Singh son of Gurdial Singh in village Bohani, under the jurisdiction of Police Station, Rawalpindi, Phagwara. All of them were got freed by the SHO concerned.*
4. *From the report (supra), it is revealed that the allegation that the father of the present petitioner has been illegally detained is found to be incorrect and false, therefore, no further action is required, as the alleged detainee has been found at the residence of aforesaid Harpreet Singh. The instant petition is, accordingly, dismissed as having rendered infructuous.*

That writ petition was ordered to be dismissed as having rendered infructuous and in that eventuality, it is clear that JMJC, Phagwara has passed the assailed order dated 12.03.2024 without having any plain

reading of the order dated 19.01.2024 passed by this Court and the proceedings which were before this Court in CRWP-291-2024.

Hence, in light of the above discussion and circumstances, the Court is of the view that the impugned order dated 12.03.2024 is suffering from illegality and is not sustainable in the eyes of law, hence, the same is hereby quashed.

The SSP, Kapurthala is directed to ensure that the keys of the house in question are handed over to the petitioner latest by 5:00 PM on 22.05.2025 after getting the same from the possession of the then Sarpanch namely Harjit Singh or any other person with whom keys are lying.

It is made clear that in case the keys are not traceable, the lock should be opened by breaking the same and there would not be any delay in putting the petitioner back in the possession of his house.

Petition is disposed of accordingly.

Since the main case has been decided, the pending application(s), if any, stands disposed of.

21.05.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>