

DAVINDER SINGH V/S STATE OF HARYANA AND OTHERS

Present: Mr. Ish Puneet Singh, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana for
Respondents No.1 and 3.

Mr. Siddharth Sandhu, AAG, Punjab for
Respondents No.2 and 4.

Ms. Deepali Verma, Advocate for
Mr. Naveen S. Bhardwaj, Advocate for respondent no.5.

In the present petition, prayer has been made for issuance of writ in the nature of habeas corpus for appointment of warrant officer and to search for the alleged detinue, namely, Preetpal Singh s/o Davinder Singh, r/o Village Nawangaon, Tehsil and District Sangrur.

This petition came up for hearing on 23.02.2024 and the following order was passed:-

“Present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of Habeas Corpus for appointment of Warrant Officer with a direction to get the detinue, namely, Preetpal Singh, released from the illegal custody of respondent No. 1.

Notice of motion for 26.02.2024.

In the meantime, Registry is directed to appoint a Warrant Officer, who shall accompany the petitioner to visit Pandit Bhagwat Dayala Sharma Post Graduate Institution of Medical Sciences (P.G.I.) Rohtak, or any other place as pointed out by the petitioner to find out the detinue. In case, the alleged detinue is found in illegal confinement, the Warrant Officer shall ensure his release forthwith. The Superintendent of Police, Rohtak, is directed to provide necessary police help to the Warrant Officer, if need be. The Warrant Officer shall submit his report on or before the next date of hearing.

Considering the contents of the petition, the Medical Officer/ Medical Superintendent PGI/M.S. Rohtak, is directed to furnish the latest status about the physical condition/medical condition/injuries, if any, upon the detenu. In case, the detenu needs any immediate medical help/assistance, the same be provided to him.”

In pursuance thereof, a status report dated 26.02.2024 was filed on behalf of respondents No.1 and 3. Relevant extract therefrom is reproduced hereunder:-

“a. That on the call of farmer unions primarily Sanyukt Kisaan Morcha(non political) and Kisaan Majdur Morcha (KMM) of Dilli Chalo, on 13.02.2024, approximately 7000 agitators in modified tractor trolleys gathered at Datasinghwala border, District Jind (Khanauri Border on the side of State of Punjab).

b. That in view of reports emanating in media and inputs of intelligence services regarding violent agitation, section 144 of CrPC was imposed in District Jind vide Deputy Commissioner, Jind order dated 1316-36/M.A. dated 09.02.02024. The agitators time and again tried to break barricades installed by the District police Jind with machines and implements, resorted to stone pelting and also attacked forces deployed with weapons. In order to maintain law and order, para military forces and Haryana Police had to use appropriate force considering the ground situation.

c. That on 21.02.2024, the protesting farmers in thousands tried to break the barricading again at around 12 noon in forceful and unruly manner, heavily equipped with machines, implements and weapons. It is pertinent to submit that the Protesters are camping inside the territory of state of Haryana around 500 meters around 90 meters away from the barricades), hence, they had formed unlawful assembly in Haryana.

d. That the protestors through adjoining fields surrounded the police personnel and central forces from all sides, burnt stubble with chilli powder in it, started stone pelting and attacked the force on duty with swords, sticks, spear etc. causing injuries to the Police personnel on duty. Considering the situation at ground, police had to use appropriate force in compliance of orders passed by the Duty Magistrate in order to disperse the protestors. During this clash, protestors and at least 15 police personnel got injured. In this regard, a case FIR No. 28 dated 21.02.2024 U/s 147, 148, 149,

186,188,307,332,353,427 and 506 of IPC and sec. 25 (1B)(a) of Arms Act, 1959 was registered in police station Garhi, Jind against one Abhimanyu Kuhad and other unknown persons.

e. That after dispersing the protestors, Preetpal was found severely injured in the fields adjoining the barricades.

f. That as Preetpal was severely injured, considering his health condition, Preetpal was immediately sent to be admitted to the Civil Hospital Narwana in the Ambulance.

g. That Preetpal was got admitted in Civil Hospital, Narwana, District Jind on 21.02.2024 itself, wherefrom, he was further referred to PGIMS, Rohtak. It is pertinent to mention herein that since the petitioner belongs to village Nawangaon (Punjab) which is about 10 km away from Datasinghwala border (Khanauri border), someone may have informed family members of Preetpal about his injuries, therefore, family members of petitioner came to Civil Hospital, Narwana and they also escorted him to PGIMS Rohtak in their own vehicle. That Preetpal was accompanied by SPO's namely Ramniwas, Harpal, Naresh and Surendra and also one person from the village of Preetpal. Hence, family members of the petitioner were very well aware about his health condition and about his admission in PGIMS Rohtak. This fact is substantiated by 'ICU Stay Consent' signed by the relatives of Preetpal on 21.02.2024 itself at PGIMS Rohtak. Eventually, Preetpal was got admitted in PGIMS, Rohtak on 21.02.2024. A true translated copy is annexed as Annexure R-1. In view of above, it is clear that Preetpal was never detained by the local police rather he was immediately got admitted in the Civil Hospital, Narwana & thereafter PGI Rohtak for treatment. Thus, averments made in the petition regarding unlawful detention of Preetpal are contrary to the facts, hence, strictly denied. Further it is also clear that the present petition has been filed while concealing material facts.

h. That further the contentions/allegations of the Petitioner that the alleged detinue was picked up by the Haryana Police at 2 PM on 21.02.24 and was given further injuries by the Haryana Police post detention are also belied by the fact that Preetpal after being found injured after the mentioned incident at 12.30 PM on 21.02.24, was immediately shifted to Civil Hospital and timing mentioned in the MLR itself is 1.21 PM

3. That the averments made in the petition of Haryana police entering into territorial jurisdiction of state of Punjab and abducting

Preetpal are false and denied. It is submitted that the Haryana police has installed its barricading at a distance of 599 meters from the Punjab border and the protestors are halted at approx 90 meters from the barricades. Since, the protestors are already in the jurisdiction of the state of Haryana, question of Haryana Police entering the jurisdiction of State of Punjab to abduct Preetpal does not arise.

4. That a report dated 25.02.2024 by way of affidavit has been received from Superintendent of Police, Rohtak mentioning therein that in compliance of the order dated 23.02.2024 passed by this Hon'ble Court, the Warrant Officer reached the Police Station, PGIMS, Rohtak at around 1:30 AM on 24.02.2024. In this regard, SHO, PGIMS, Rohtak entered the proceedings vide DD entry No. 1 dated 24.02.2024. Thereafter, he along with SHO and other police officials reached to Preetpal Singh who was admitted in the Room No. 33, Ward No. 7 of PGIMS, Rohtak. The board of doctors conducted medical check up of Preetpal Singh. On request of the family members, he has been referred to PGI, Chandigarh under police security for further treatment. DD entry No. 26 dated 24.02.2024 to this effect has been recorded.”

On 26.02.2024, when the matter was taken up by this Court, the following order was passed:-

“Status report by way of an affidavit of Sumit Kumar, IPS, Superintendent of Police, Jind, has been filed on behalf of respondents No. 1 and 3, in the Court today which is taken on record. Copy of the same has been handed over to the counsel opposite.

As regards the direction issued by this Court to the Medical Officer/Medical Superintendent PGI/M.S. Rohtak, to furnish the latest status report about the physical condition/medical condition/injuries, if any, upon the detainee, no affidavit has been filed.

Learned State counsel prays for one day time to do the needul.

List on 28.02.2024.”

In terms of the aforesaid order, an affidavit dated 02.03.2024 was filed by Prof. (Dr.) S.S. Lohchab, Director, Pandit B.D. Sharma, Post Graduate Institute of Medical Sciences, Rohtak wherein the following opinion was expressed about the injuries:-

“The board is of unanimous opinion that the possibility of assault cannot be ruled out in this case. However, at this stage no definite opinion can be given regarding the manner of injuries because the patient has already been referred to PGIMER, Chandigarh for further management and still under treatment there. Further no circumstantial evidence has been provided by the investigating officer of the case for taking the final opinion in this case.”

Meanwhile, vide order dated 29.02.2024, the Director, PGIMER, Chandigarh was also requested to get a medical board constituted so as to opine about the injuries sustained by Preetpal Singh. In pursuance thereof, a report dated 04.03.2024 was received with the following opinion:-

“Forensic Medicine Opinion :

Considering all the available medical records, assessment notes of the Maxillo-facial surgery, Plastic surgery, Orthopedic surgery, General surgery, Neuro Surgery, and Radiology members, and the pattern of injuries on the body of the patient, Mr Preetpal Singh, the possibility of physical assault by blunt force cannot be ruled out. Duration of the injuries is about 2 weeks. Injuries no 3, 4, 13, 14 are grievous and the rest of the injuries are simple in nature. All the injuries are caused by blunt force impact except for Injury no 5 which is caused by application of ligature.

- Mr. Preetpal Singh has sufficient power in both upper limbs for writing purposes.”

On the last date i.e. 06.03.2024, learned counsel for the petitioner prayed for two days' time to get instructions from the family of Preetpal Singh as regards his physical condition for the purpose of getting his statement recorded. Today, it has been informed that the petitioner is in a fit condition to give his statement. Thus, considering the nature of multiple grievous injuries sustained by the petitioner, in addition to the medical opinion expressed by the Board of medical

Officers, constituted by PGI Rohtak as well as PGIMER Chandigarh, it would be appropriate that the statement/version of Preetpal Singh be recorded which has not been done so far.

Accordingly, the Chief Judicial Magistrate Chandigarh is requested to visit Emergency Ward, PGIMER, Chandigarh and get the statement of Preetpal Singh recorded as regards the circumstances surrounding the injuries sustained by him, after obtaining necessary permission from the treating doctors. Learned Chief Judicial Magistrate Chandigarh, is also requested to get the statement recorded in the presence of treating doctors as well as Mr. Rajesh Kumar Mohan, IPS, ASP Hisar who is stated to be heading the SIT relating to investigation of FIR No.28 dated 21.0.2024 registered under Sections 147, 148, 149, 186, 188, 307, 332, 353, 427 and 506 of IPC and Section 25(1B)(a) of Arms Act, 1959 at P.S. Garhi, Jind registered against one Abhimanyu Kuhad and other unknown persons. It may be pointed here that as per information provided by learned State counsel, on instructions from Mr. Rajesh Kumar Mohan, IPS, ASP Hisar, so far, the petitioner has not been nominated as an accused in the aforementioned FIR.

List on 15.03.2024.

Registry is directed to convey this order to learned Chief Judicial Magistrate, Chandigarh.

12.03.2024

Tejwinder

**(HARKESH MANUJA)
JUDGE**