

201 CRWP-10612-2024

MANGAL KUMAR DAWAR V/S STATE OF PUNJAB AND ORS

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Present: Mr. Lajwant Singh Virk, Advocate,
for the petitioner.

Dr. Dharminder Singh Lamba, DAG, Punjab.

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1. As per the allegations mentioned in the present *Habeas Corpus* petition, detenuess namely; (1) Meena Rani wife of the petitioner, (2) Ketan Dawar son of the petitioner, have been illegally confined by the police of Police Station Jodhewal, District Ludhiana.

2. Allegation is that detenuess – Meena Rani, proprietor of firm namely M/s Manmohan Enterprises has taken two godowns on lease from complainant Tejinder Kaur (respondent No.6 herein) situated at Ekta Colony, Kailash Nagar Road, Backside Bharat Petroleum Station, Ludhiana measuring 42’2” x 65’6” and 68’ x 60.6”. Possession with the detenuess is said to be on the basis of admitted lease-deed dated 20.11.2019, which came into force w.e.f. 01.12.2019 for five years, and additional lease-deed dated 29.05.2023.

3. Counsel for the petitioner contends that execution of first lease-deed by respondent No.6 – Tejinder Kaur is not disputed. However, the second lease-deed dated 29.05.2023 has been disputed by complainant-respondent No.6.

Further alleges that the concerned police agency being hands in glove with respondent No.5, who is husband of the complainant’s niece and sitting AIG of Punjab Police, who remained at various posts in the District Ludhiana, like DCP etc., has converted the present civil case into a criminal matter for giving undue advantage to respondent No.6 and to

pressurize the petitioner and his family to vacate the rented property. Thus, registration of FIR No.114, dated 24.10.2024, under Sections 420, 465, 467, 468, 471, 120-B, 427 of IPC, at Police Station Jodhewal, District Police Commissionerate, on the basis of complaints dated 04.04.2024 and 15.05.2024, is nothing but arm twisting approach adopted by the police.

4. Counsel for the petitioner also contends that there was a constant pressure from the police to hand over the original additional lease-deed dated 29.05.2023 in the police station and despite repeated requests for issuance of formal notice in regard to the demand of the original lease-deed, such requests were flatly refused and never any notice was received. Petitioner and detenuess got apprehensive that in case, the said lease-deed is handed-over to the police, same would either be destroyed or would be tampered with. Therefore, by moving application before the Court of Illaqa Magistrate, Ludhiana, on 03.07.2024, detenuess No.1 expressed her willingness to submit the required lease-deed to the concerned SHO through the Court, wherein, following order was passed:-

*“Present: Sh. Janamjit Singh Sidhu Advocate for the applicant.
Application for issuing directions to SHO, PS Basti Jodhewal Ludhiana to received the original Additional Lease Deed dated 29.05.2023 from the applicant has been presented today. It be registered. Let, report of concerned SHO be called for 06.07.2024.”*

5. Counsel for the petitioner further submits that on the application filed by detenuess No.1, one report dated 13.08.2024 (Annexure P-7) was submitted by the Police Station Basti Jodhewal, informing that neither there is any criminal case registered against Meena Rani (detenuess No.1), nor she is required in any application.

On account of the said statement, the application filed by detenu No.1 on 03.07.2024, was withdrawn, having *bona fide* belief over the report submitted by the police officials.

6. Further submits that to justify the illegal confinement of the detenues, despite submission of aforesaid report before the Court and consequent withdrawal of the application thereon, the detenues and other family members have now been slapped with FIR No.114, dated 24.10.2024, under Sections 420, 465, 467, 468, 471, 120-B, 427 of IPC, at Police Station Jodhewal, District Police Commissionerate. Thus, he submits that detenues have now been detained illegally by projecting their arrest, because of their involvement in the said criminal case to cause undue harassment.

7. The concerned SHO, Mr. Gurdial Singh, Sub-Inspector, PS Jodhewal, Ludhiana, when put with a specific question, as to where the complainant/respondent No.6 is and why she is not present before this Court, he replied that complainant/respondent No.6 – Tejinder Kaur, is residing in the United States of America (USA) and the FIR has been lodged on account of her complaints dated 04.04.2024 and 15.05.2024. No plausible and satisfactory explanation has been given by Mr. Gurdial Singh, SI/SHO that once version of the complainant for committing the criminal offence was available with the police, why no action was taken immediately by the police on the complaints dated 04.04.2024 and 15.05.2024 itself, when even complainant herself was present in the Country at the relevant time.

Not only this, why suddenly after submission of report by the police before the Illaqa Magistrate, criminal case has been registered now, despite there being no immediate complaint/reminder by the complainant and also, she being not present in the country.

To explain all this, no satisfactory explanation has been given by either Dr. Dharminder Singh Lamba, DAG, Punjab or Mr. Gurdial Singh, SI/SHO, who is also present in the Court.

Prima facie the contention raised by the counsel for the petitioner through present petition seems to be more probable and if truly so, undoubtedly, undue harassment has already been caused to the detainees by the police. However, same is still under examination before the Court.

8. At this stage, Court notices that instant petition has been fixed from tomorrow to today itself, probably considering the fact that festival of Diwali, which is celebrated by each and every citizen of the country, is awaiting the presence of the detainees at home.

9. In the facts and circumstances recorded here-above and by exercising the inherent jurisdiction under Section 528 of BNSS, 2023, read with constitutional mandate and more for the reason that there is no allegation of involvement of the detainees in any other criminal case, as well as to protect the rights of the citizens, both the detainees namely; (1) Meena Rani (wife of the petitioner), (2) Ketan Dawar (son of the petitioner), are directed to be released on bail, without any further delay, subject to furnishing of requisite bail/surety bonds in the sum of Rs.20,000/- (each).

10. For further examination of the contents of the allegations mentioned in the instant petition and in specific, the role of the police officials, list this case again on 25.11.2024.

11. Meanwhile, it will be open for the Director General of Police, Punjab, to get an independent inquiry conducted *qua* the alleged role of police in the matter in accordance with law, and on doing so, let a report be submitted before this Court on the next date of hearing.

Additionally, it would be expected that the Director General of Police, Punjab, would get any such inquiry conducted through an officer not below the rank of the Senior Superintendent of Police (IPS).

12. Last but not the least, apart from the examination of the role of the police authorities, it will be open for the private respondents and the detenues or their family members including the petitioner, to find out some amicable means, to settle and resolve their disputes.

Let copy of this order be forwarded to the office of DGP, Punjab also.

**(SANJAY VASHISTH)
JUDGE**

October 31, 2024
J.Ram