

**In the High Court of Punjab and Haryana at Chandigarh**

(129)

**CRWP No. 5463 of 2022 (O&M)**

**Date of Decision: 02.6.2022**

Lawrence Bishnoi

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**

Present: Mr. Sangram Singh Saron, Advocate  
Ms. Shubreet Kaur, Advocate &  
Ms. Surabhi Kaushik, Advocate  
for the petitioner.

Dr. Anmol Rattan Sidhu, Advocate General, Punjab,  
Mr. G.G.Dhuriwala, Sr. DAG, Punjab,  
Mr. Pratham Sethi, Advocate,  
Mr. Shiv Kumar Sharma, Advocate and  
Mr. R.K.Rathore, Advocate  
for the State of Punjab.

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**SURESHWAR THAKUR, J. (ORAL)**

**CRM-W-667-2022**

The application is allowed as prayed for. Annexures P-11, and, P-12 are taken on record.

**CRWP-5463-2022**

1. The petitioner has instituted the instant petition before this Court, seeking the issuance of the hereinafter directions, upon, the respondents.

*“1. Issuing a writ, order of direction in the nature of mandamus directing the respondents to ensure that the life, liberty, and well-being of the petitioner, guaranteed under Article 21 of the Constitution of India is protected;*

2. Issuing a writ, order of direction in the nature of mandamus directing the respondents for dispensing the physical presence and production of the petitioner in respect of the investigation into FIR No. 103 dated 29.5.2022 (Annexure P-1) registered with Police Station City 1 Mansa, District Mansa, Punjab for offences punishable under Sections 302, 307, 341, 148, 149, 427, 120-B of the IPC and Sections 25 and 27 of the Arms Act, 1959 and other crimes/FIR's registered against the petitioner as there is a serious threat and apprehension to the life and well-being of the petitioner;

3. Issuing a writ, order of direction in the nature of mandamus directing the respondents to question and/or interrogate the petitioner in connection with FIR No. 103 dated 29.5.2022 (Annexure P-1) registered with Police Station City 1 Mansa, District Mansa, Punjab for offences punishable under Sections 302, 307, 341, 148, 149, 427, 120-B of the IPC and Sections 25 and 27 of the Arms Act, 1959 through online mode/video conference facility or within the precincts of Tihar Jail, New Delhi in view of the serious threat and apprehension to the security, well-being, life and liberty of the petitioner;

4. Issuing a writ, order of direction in the nature of mandamus directing the respondents to implement and scrupulously follow the decision of the Hon'ble Supreme Court in the case of *Paramvir Singh Saini versus Baljit Singh and Ors. Special Leave Petition (Criminal) No. 3543 of 2020: MANU/SC/0908/2020*, in order to ensure that the investigation/interrogation of the petitioner is Audio and Video recorded in consonance with the decision of the Hon'ble Apex Court in the case of *Paramvir Singh Saini (supra)*;

5. Issuing a writ, order of direction in the nature of prohibition for restraining the learned Jurisdictional Magistrate/Chief Judicial Magistrate, Mansa, Punjab from issuing Production Warrants for producing and handing over custody of the petitioner to the respondent No. 4/SIT in aid of investigation into FIR No. 103 dated 29.5.2022 (Annexure P-1) registered with Police Station City 1 Mansa, District Mansa,

*Punjab for offences punishable under Sections 302, 307, 341, 148, 149, 427, 120-B of the IPC and Sections 25 and 27 of the Arms Act, 1959;*

6. *Grant any other relief(s) or pass any other order(s) or directions(s) in addition to or in the alternative, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. A reading of the hereinabove directions, as asked to be made, upon the State of Punjab, disclose, that obviously they are rested, upon an apprehension, nursed by the present petitioner, qua his becoming inculpated in the murder of one Shubhdeep Singh Sidhu. In respect of the above crime, an FIR bearing No. 103 of 29.5.2022, has been registered with Police Station City-I Mansa, District Mansa, wherein, offences constituted under Sections 302, 307, 341, 148, 149, 427, 120-B IPC, and, under Sections 25, 27 of the Arms Act, 1959, are embodied.

3. In pursuance to the above FIR, the petitioner concomitantly nurses an apprehension, that through warrants of arrest made by the police, upon, the Superintendent of Jail concerned, he is likely to be arrested by the police of the State of Punjab, and, that thereafter he is likely to be produced, before the learned Illaqa Magistrate concerned, by, and, for the investigating officer concerned, asking for his being put to either police remand or judicial remand. He apprehends that during the course of his transit from the jail, where he is instantly lodged, until the Court concerned, where he is likely to be produced, by the police officer for the relevant purpose, there is every likelihood of his being eliminated in a fake encounter.

4. The learned counsel for the petitioner, though has contended, that the personal/physical presence, and, the personal production for the relevant purposes before the Court of the jurisdictional Magistrate, be dispensed with, and, rather though he has prayed that his custodial interrogation, if any, as may

be required in respect of the petition crime, be made through online video conferencing facility, as is available within the premises of Tihar Jail at New Delhi. However, without delving into the validity of the afore submission, and, nor adjudicating whether it is within or outside the ambit of the statutory empowerments bestowed, upon, the police, under Section 167 Cr.P.C., and/or not also determining, whether the afore relief can be granted only after validly issued production warrants, being made by the Court of the jurisdictional Magistrate, and, nor also determining whether the “warrants of arrest”, if any, or as may be issued by the police officer, and, if, made upon the Superintendent of Jail concerned, can rather cause any lawful arrest, of the petitioner, nor also determining whether if it may be happening, hence there may be rather merely a transfer of the petitioner's custody from the Tihar Jail, to the Punjab police. Conspicuously also without also determining, whether Section 167 Cr.P.C., rather operates in the realm of arrest by a police officer of an offender, through a “warrant of arrest”, whereafter the offender is to be produced for the relevant purpose before the jurisdictionally empowered Magistrate, and/or, whether Section 267 Cr.P.C., appertains to production under “production warrants” of an accused hence inmated in prison, after completion of police remand or after completion of investigation, and, may be for ensuing the facings of inquiry(ies) or trial(s), rather by the prison inmate, besides without also determining whether both provisions (supra) are independently operational, as, Section 267 Cr.P.C., does not explicitly either oust the sway or the clout of Section 167 Cr.P.C. Be that as it may, conspicuously rather the reason for not making the above determinations, contrarily for construing the present petition being misconstituted, stands sparked, from the hereinafter made submission(s), by the learned Advocate General, Punjab.

5. The learned Advocate General, appearing on behalf of the State of

Punjab, has stated, that as of today, rather the Punjab Police has not nominated, the present petitioner as an accused, in the petition FIR. Therefore, all the above reared apprehensions, on the part of the present petitioner, are completely premature, and, also misconstituted.

6. Moreover, also from the learned Advocate General, Punjab, placing on record an order, made by the Judicial Magistrate, Delhi. The order of the Judicial Magistrate, Delhi, as placed on record by the learned Advocate General, Punjab, is made on 31.5.2022. A perusal thereof reveals, that the prayer made by the public prosecutor concerned, for the present petitioner becoming remanded to police custody, rather becoming granted, and, the above granted remand of the present petitioner, to police custody, being in respect of a crime becoming committed by him, at Police Station Special Cell, Delhi.

7. Therefore, also in view of the unchallenged order (supra) made on 31.5.2022 by the learned jurisdictionally empowered Magistrate concerned, and, when through the above order, the period of police remand, as granted to the investigating agency concerned, qua the petitioner, is not over, as, of date. In consequence also, the present petitioner cannot nurse any apprehension, that yet he is likely to face any police remand, after his being likely to be arrested, under, any warrants of arrest, if any, as may be issued by the police officer concerned, upon, the Superintendent of Jail concerned, nor he can well rest any apprehension, that during his transit from the jail concerned, upto the Court of the jurisdictional Magistrate concerned, he is likely to be eliminated in a fake encounter, rather by the Punjab police. Reiterately all the above nursed apprehensions, do, in the wake of all above, rather conspicuously become completely effaced.

8. Be that as it may, as, and, when a genuine apprehension spurs, qua the present petitioner, being likely to be lawfully arrested in respect of the

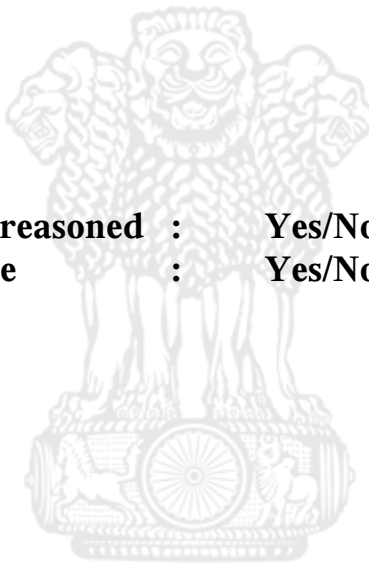
petition FIR, thereupon, he may avail the appropriate remedies. Therefore, the instantly availed remedy, rather for all the afore reasons, is completely premature, and, is dismissed as such.

9. Accordingly, the instant petition is dismissed at this stage. However, leaving liberty to all the concerned, to respectively take appropriate remedies, and/or, to draw appropriate actions, in accordance with law, if deemed fit, and, at an appropriate stage.

(SURESHWAR THAKUR)  
JUDGE

June 02, 2022  
Gurpreet

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



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