

226

SHAMSHER SINGH @ SHERA VS STATE OF PUNJAB

Present :- Mr. Rishu Mahajan, Advocate
for the petitioner in CRM-M-43555-2024.

Mr. Ankur Jain, Advocate
for the petitioner in CRM-M-45561-2024.

Mr. Hitesh Chopra, Advocate with
Mr. Amit Kumar, Advocate
for the petitioner in CRM-M-1577-2025.

Mr. Ravneet Singh Joshi, Deputy, A.G., Punjab.

This case was taken up by this Court on 25.02.2025 and the following order was passed:-

“The petitioner has filed the instant petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant regular bail in case FIR No.31 dated 22.02.2024 registered under Sections 21(C), 27(a), 25/29/61/85 of NDPS Act, at Police Station Ajnala, Amritsar.

Short reply by way of an affidavit of Deputy Superintendent of Police, Sub-Division Ajnala, Amritsar (Rural) has been filed on behalf of the respondent-State in Court today and the same is taken on record.

During the course of hearing, learned counsel for the petitioner contends that at the time of his arrest, the petitioner was confined in jail. A specific query has been put to the learned State counsel as to whether any jail official has been arrayed as accused in the present case. Learned State counsel has submitted that in the present case, no jail official has been arrayed as accused in the present case.

It is surprising to know that Shamsheer Singh @ Shera, the present petitioner, who was confined in jail, was involved in smuggling of heroin and 6 kgs of heroin was recovered from the co-accused of the petitioner. But it appears that the police had not even bothered to investigate the role of jail officials in the present case.

The Senior Superintendent of Police (Rural), Amritsar is directed to read the file of the Investigating Officer in the present case and file a reply by way of his personal affidavit mentioning the reasons for not arraying jail officials as accused in the present case. He shall also place on record any material to show that the jail officials were questioned in the present case and shall also explain to the Court as to why the jail officials were not arraying as accused in the present case.

In case, reply is not filed on or before the next date of hearing, the concerned SSP shall remain personally present before this Court on the next date of hearing.

The Investigating Officer of the present case is also directed to remain present in the Court on the next date of hearing.”

From the above referred order, it is quite evident that this Court had taken a very serious view of the matter as the petitioners were allegedly indulging in smuggling, while they were confined in Central Jail. Apparently, such illegal activity was not possible without the active collusion of the senior jail officers as well as the local police officers. Even, this Court had directed the DSP, Amritsar (Rural) to read the file of the IO in the present case and to file a reply by way of his personal affidavit,

mentioning the reasons for not arraying the jail officials as accused in the present case.

In the purported compliance of the orders passed by this Court, an affidavit dated 24.03.2025 has been filed by SSP, Amritsar (Rural). From the affidavit, it is apparent that despite specific directions by this Court, the SSP had directed the DSP, Sub Division Ajnala to assist and to submit a report with regard to the evidence collected against the accused in the present case and the action taken against the jail officials, so that the affidavit may be filed by the SSP. In fact the conduct of the SSP in this regard is on the verge of contempt. Once there was a specific direction to the SSP to read the file of the case personally and to take effective steps accordingly; he could not have delegated the matter further to a DSP.

Further, shockingly in his affidavit dated 24.03.2025, the SSP has made the following averments:-

“6. That after passing of the abovesaid order dated 03.03.2025, the deponent wrote a Letter No. 616-Litigation dated 04.03.2025 to the Superintendent Central Jail, Amritsar, in continuation of the letter No. 31-5E dated 16.03.2024, whereby it was stated that the accused in their disclosure statement have stated when their accomplices were arrested, they broke their phones and flushed them out. Further, it was requested that if any role pertaining to any of the jail official deployed in their barrack or who was responsible for the security of their barrack, has come on record and if any departmental action has been taken against them, the same may be shared with the office of the deponent.

7. That in continuity of the above-mentioned letters, another Reminder Letter No. 786-789-Litigation dated 15.03.2025, was sent by the deponent to the Superintendent Central Jail Amritsar, and it was stated that the details regarding the role of jail officials (if any) as mentioned in the previous letters has come on record, the same may be shared with the office of the deponent, so that further action can be taken in FIR No.31 (Supra), in accordance with law.

8. That in this regard a Letter No.1123 dated 19.03.2025, was received in the office of the deponent, wherein it was stated that no role of any official in aiding the accused in FIR No. 31 (Supra), has come on record and no such record, in regard to departmental action taken against them, is available in the office of the undersigned.”

From the above referred paragraphs, it is apparent that the Police of District Amritsar (Rural) has invented their own methods of investigation and the investigation was not conducted as per the mandatory provisions of the B.N.S.S./Cr.P.C. It is shocking to note that instead of interrogating/questioning the jail officials immediately and to probe their involvement in smuggling, the official letters were sent to the jail officials. Surprisingly, the police is waiting for the senior jail officials to take departmental action against the suspects. As per the settled law, the criminal investigation can proceed independently, without even looking for the departmental action against the jail officials, who are suspected of providing phones and other support to the smugglers in the jail. This Court is equally pained to notice that by way of official letters, certain queries

have been put to the Superintendent of Police, Central Jail, Amritsar, who himself was a suspect, being head of the jail administration and without his active connivance, the mobile phones could not have been taken inside the jail. Apart from that, in a way, the police had delegated the powers of investigation to the jail officials, i.e., the suspects in crime, which could not be permitted in law. It appears that the mandatory provisions of law were completely brushed aside, which highlights the unholy collusion between the police officials and the jail officials. Even, it appears that the concerned SSP has also adopted a very casual approach in interrogating the jail officials, who were promoting smuggling from Central Jail, Amrtisar.

The SSP, Amritsar (Rural) is directed to remain present in the Court on the next date of hearing alongwith entire record of investigation.

A copy of this order may be sent to the Director General of Police, Punjab and he is requested to depute a very senior officer to examine the files of all cases registered under NDPS Act, where there are allegations of smuggling from various jails of Punjab. It is expected that in all such cases, appropriate legal action shall be taken against the senior most jail officials as well, who are normally spared by the police without any justification.

Adjourned to 16.05.2025.

A photocopy of this order be also placed on the files of connected cases.

A copy of this order be handed over to the learned State counsel under the signatures of the Bench Secretary of this Court for compliance.

(N. S. SHEKHAWAT)
JUDGE

14.05.2025
amit rana