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CRM/747/18

ND-14/3/18

IN THE COURT OF HON'BLE Ms. ANKITA MITTAL, JMJC
LUDHIANA

Police Station Tibba Thana,
Ludhiana

COMI/ _____ /2018

Mukesh Thakur(aged 29 years), S/o Late Sh. Indrakant Thakur,
R/o H.No.14060, Street No.2, Ram Nagar, Tibba Road,
P.S Tibba Thana Ludhiana.

...Petitioner

Versus

Surinder Pal Khanna,

the then Jail Superintendent, Central Jail Tajpur Road, Ludhiana

...Respondent

Application under 341 and 342 of the Indian
Penal Code, 1860 for Commitment of an
Offence of Wrongful Confinement by the
Respondent, read with Section 357(3) of the
Code of Criminal Procedure, 1973.

GROUND'S OF PETITION

1. That Petitioner is a citizen of India, whistle blower and working as a social activist with Bhristachar Virudh Jagriti Abhiyan, Ludhiana.
2. That a case title State vs Mukesh Thakur and ors FIR No.343 u/s 379B,506,120 P-S Basti Jodhewal is pending for next date 08.04.2019 in the court of Sh. Balwinder Kumar ASJ, Ludhiana. (Annexure P1).
3. On 19/08/2017 at about 5.30 am, the Petitioner was arrested by the police officials of P.S.-Basti Jodhewal namely 1) Swaran Singh-ASI, 2) Kapil Kumar Sharma - Incharge Tibba Chowki, 3) Harpreet Singh - ASI and others. The mother of the Petitioner called at help line No. 181 through mobile No. 98031-67299 at about 8:27 am (Annexure-P2).

On 20/08/2017 at about 4:00pm, the police officials produced the Petitioner before the Hon'ble Court of Miss. Ekta, Judicial Magistrate 1st Class, Ludhiana and thereafter, the Petitioner was medically examined in the Civil

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Hospital, Ludhiana at about 4:55 pm(Annexure-P3) and was sent to judicial custody.

4. Dr. Sushil Bodh, Ld. JMIC-PCS/Ludhiana has issued Production Warrant in Case FIR No.236 of 2017 to Jail Authority to produce the Petitioner on 06/11/2017 before the Hon'ble Court (Annexure-P4). But the Jail Authority had not produced the Petitioner before the Hon'ble Court, thus Jail Superintendent had violated the order of the Hon'ble Court and committed contempt of court.
5. Vide order 8.11.2017, the Court of Learned ASJ/Ludhiana had allowed the bail application of the Petitioner (Annexure-P5) and bail bond was furnished by the Petitioner on 9.11.2017 before J.M.I.C./Ludhiana (Annexure-P6) and release order was sent to Surinder Pal Khanna, the then jail Superintendent, Ludhiana on 9/11/2017 (Annexure-P7).

Despite receiving the bail order of the Petitioner, the Jail Superintendent had written a letter No.8270 dated 10.11.2017 to the Hon'ble Court to verify that whether bail had been granted to the Petitioner in FIR No.236 of 2017 or not (Annexure-P8). While, the jail officials were requested by the Petitioner to check their own record for verification of previous release order in FIR No. 236 of 2017.

6. The Hon'ble Court had issued letter bearing No.1357 dated 13/11/2017 for verification of the bail order dated 07.07.2017 of Petitioner in FIR No.236 of 2017(Annexure-P9)
7. Sh. Surinder Pal Khanna, the then Jail Superintendent, Central Jail Tajpur Road, Ludhiana, has released me and Sh. Lucky@ jai hind gupta all 13/11/2017 at 8.00pm. (Annexure-P10)
8. That the jail Superintendent had not followed the order dated 08/11/2017 issued by the Hon'ble Court(Annexure-P5). The Jail Superintendent had also not produced the Petitioner in the Court on 6.11.2017 in case FIR No.236 of 2017, thus committed contempt of court. **The Petitioner was detained in illegal custody in Jail from 9.11.2017 to 13.11.2017**

9. **POINTS OF LAW INVOLVED**

1. *Whether not passing an order by the Ld. Presiding Officer when the accused was ordered to be produced in the Hon'ble Court lawful?*
2. *The Trial Courts, Session Courts and Hon'ble High Courts release a lot of accused on bail every day. Whether the Jail authorities again write*

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back to the respective courts for the reconfirmation of their orders on releasing the accused on bail? Whether in the instant case, the Jailer has deliberately written back to the Hon'ble Court for reconfirmation of their order to prolong the action of releasing the Petitioner on bail even after furnishing the bail bonds?

3. *Whether while releasing the accused on bail after a judicial order has been passed for the same, the Jail authorities are supposed to look into their own records for confirming whether the accused is required in another case?*
4. *Whether Petitioner is entitled to compensation from the respondent for physical and mental injuries undergone by them?*

ON MERITS

1. Hence, the Respondent did not release the Petitioner on 09-11-2017 and kept the Petitioner illegally detained and released him on 13-11-2017 in this manner there is five days wrongful confinement. Hence, the Respondent is guilty of wrongfully confining the Petitioner.

RELIEF SOUGHT

1. It is therefore, respectfully prayed that the present complaint be please taken into consideration by this Hon'ble Court and that Respondent be punished under Section 342 of the Indian Penal Code, 1860 for committing an offence of wrongful confinement under Section 341 of the Indian Penal Code, 1860.
2. It is also prayed that the Petitioners may please be awarded each a compensation of Rs. 5 Lakhs from each of the Respondent under Section 357(3) of the Code of Criminal Procedure, 1973, for mental agony suffered by the Petitioner, in conformity of the law laid down by the Hon'ble Supreme Court in number of cases awarding compensation for the infringement of the fundamental right to life of a citizen. (D.K. Basu v. State of West Bengal (1997 1 SCC 416); Rudal Shah Vs. State of Bihar [1983 (4) SCC, 141]; Sebastian M. Hongrey Vs. Union of India [1984 (3) SCC, 339] and 1984 (3) SCC, 82]; Bhim Singh Vs State of J & K [1984 (Supp) SCC, 504 and 1985 (4) SCC, 677] Saheli Vs. Commissioner of Police. Delhi [1990 (1) SCC 422]

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It is further prayed that exemption from filing the certified copies of the annexures may kindly dispensed with, in the interest of justice.

Place: Ludhiana

Petitioner

Date: 04/02/2019

Mukesh Thakur

(Mukesh Thakur)

Petitioner in Person

Verification:

It is verified that all the contents of the Complaint are true and correct to the best of knowledge as my client declared before me. No part of it is false and nothing material has been kept concealed therefrom.

Petitioner

Place: Ludhiana

Mukesh Thakur

(Mukesh Thakur)

Petitioner in Person

Certified to be true copy

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LUDHIANA
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LUDHIANA