



CWP-16513-2025 (O&M)

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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CWP-16513-2025 (O&M)
Date of decision:31.07.2025

Harnek Singh and another

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rajesh Singh Dadwal, Advocate
for the petitioners.

Mr. Sahil R. Bakshi, Addl. A.G. Punjab.

SUVIR SEHGAL J.

1. Instant petition has been filed for issuance of a writ in the nature of mandamus directing the official respondents to take disciplinary action against respondents No. 3 to 6, for illegally detaining the petitioner from 26.04.2025 to 28.04.2025 and for directing them to pay compensation of Rs.5 Lacs to each of the petitioners.

2. Mr. Rajesh Singh Dadwal, counsel for the petitioners states that petitioner No.1 is father of respondent No.2 and there is a property dispute *inter se*. He submits that respondent No.7 has

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been harassing petitioner No.1 and threatened to kill him. Petitioner No.1 disinherited his son and daughter-in-law in the year 2011, but with the intervention of respectable, a panchayati compromise was effected between them on 18.01.2013, Annexure P-1. Petitioners No. 1 and 2, who are brothers, transferred some land in favour of respondent No.7. Counsel alleges that as relations did not improve, petitioners approached this Court and by order dated 20.03.2014, Annexure P-2, Senior Superintendent of Police was directed to examine the representations submitted by the petitioners. Counsel submits that on 09.04.2025, respondent No.7 along with some members of panchayat and relatives, forcibly entered the petitioner's house and abused him by using filthy language. Complaints, Annexure P-3 and P-4 were submitted and the petitioners appeared before the police authorities. Counsel asserts that instead of taking an action on the complaints, a kalandra dated 28.04.2025, Annexure P-7, was issued under Section 126/170 of Bharatiya Nagarik Suraksha Sanhita (BNSS) on a complaint given by respondent No.7 and the petitioners were arrested. He submits that petitioners were sent to judicial custody vide order dated 26.04.2025, Annexure P-7 and were released on 28.04.2025 on furnishing of bail bonds. Counsel emphasizes that petitioners were illegally detained and although sureties were present on 26.04.2025, but bail bonds were not accepted.

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Claiming that petitioners were wrongfully detained, they have sought disciplinary action against SDM and police officials, besides claiming compensation. Counsel has argued that order, Annexure P-7, passed by the SDM was without jurisdiction. He has placed reliance upon (i) **Ahmed Noormohmed Bhatii Versus State of Gujarat and others, 2005(2) RCR (Criminal)320**; (ii) **D.K. Basu Versus State of West Bengal, 1991(1) RCR (Criminal) 372**; and (iii) **Medha Patkar Versus State of M.P. and another, 2007(28) RCR (Criminal) 368**, in support of his submissions.

3. I have heard counsel for the petitioners and considered his submissions.

4. In order to succeed, petitioners have to establish that their detention was illegal. Admittedly, petitioners were taken into custody pursuant to order dated 26.04.2025, Annexure P-7, passed by the SDM, Ahmedgarh. Order reads as under:-

“Case titled as State Vs Balvir Singh son of Inder Singh etc. residents of village Kanganwal.

(regarding 126/170 B.N.S.S. Police Station Ahmedgarh)

Dated:- 26.04.2025

Present:- Respondents

Today this Kalandra under Sections 126/170 B.N.S.S. has been presented in the Court by SHO, Police Station Sadar Ahmedgarh namely Amrik Singh

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A.S.I. Kalandra has been perused. It be registered. The respondents have been directed to submit bail bonds of 50000/50000 under Section 135(3) B.N.S.S. otherwise they be sent to judicial custody. The respondents have not submitted their bail bonds at the spot. The respondents be sent in judicial custody till 28.04.2025. The file be put up on 28.04.2025.

*Sd/-
Sub Divisional Magistrate
Ahmedgarh.”*

5. A perusal of the above reproduced order shows that on presentation of the kalandra by the SHO concerned, petitioners were asked to furnish bail bonds of Rs.50,000/- each under Section 135(3) BNSS. However, they did not furnish the bail bonds and were sent to judicial custody. It has been claimed that Jagdeep Singh son of Late Gurdev Singh and Gurjant Singh son of Inder Singh were prepared to give the sureties, but there is no material to substantiate this assertion. There is nothing on record to show that both the sureties were present before the Magistrate on 26.04.2025. Reliance has been placed by the petitioners on affidavits, Annexures P-8 and P-9, which are self serving documents and do not advance the case of the petitioners. On 28.04.2025, when the bail bonds were furnished, which were accepted, release warrants were issued and petitioners were set free. Order Annexure P-7, has been passed by the Magistrate in exercise of the powers vested in it and in absence of any challenge in the writ

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petition, it cannot be set aside. Till the time this order is not quashed, detention of the petitioners cannot be said to be unlawful. As such, claim for compensation is unfounded and it deserves to be rejected. Similarly, prayer for taking disciplinary action against the police officials, who have acted in discharge of their duty, does not deserve to be entertained. Judgments relied upon by counsel for the petitioners are not applicable to the facts of the case.

6. There is no merit in the writ petition, which is dismissed though, with no order as to costs.

31.07.2025
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No