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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15579-2024 (O&M)
CRM-M-65335-2023 and
CRM-M-19581-2024

VINAY KUMAR ...PETITIONER

Versus

STATE OF PUNJAB ... RESPONDENT

Present: Mr. Amardeep Singh, Advocate for the petitioner(s).
in CRM-M-15579-2024.

Mr. Ankur Jain, Advocate
for the petitioner in CRM-M-19581-2024.

Mr. Jaspal Singh Guru, AAG, Punjab.

Before parting with the proceedings of the day in this petition it would be appropriate to give a brief backdrop of the case wherein the Court is seized of the petition whereby the petitioner has sought regular bail in FIR No. 143 dated 15.09.2023 under Sections 21-C, 27-A and 29 of The Narcotic Drugs and Psychotropic Substances Act, 1985 registered at P.S. Sarhali, District Tarn Taran, Punjab.

During the course of hearing on an earlier occasion, dispute with regard to the date on which the petitioner-accused was taken into custody was raised at the behest of the petitioner through his counsel, Mr. Amardeep Singh, Advocate who alleged that the petitioner was actually taken into custody on 14.09.2023 from the house of one Mohit Sharma but in the records, he has been shown to be arrested on

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16.09.2023. This assertion was supported by the CCTV footage and a CD which was placed on record as Annexure P-2 before this Court.

While further examining the issue, this Court asked the State Counsel to file status report, after looking into the allegations against the police team and also to test the veracity of CD placed before the Court vide order dated 09.08.2024 and adjourned the matter to 29.08.2024.

On the adjourned date i.e. 29.08.2024, an affidavit of Kanwalpreet Singh, Deputy Superintendent of Police, Sub Division Patti, District Tarn Taran dated 28.08.2024 came to be filed stating that the said CD and the pen drive stand deposited in the Office of Director, Central Forensic Science Laboratory, CIF's complex, Plot No.2, Dakshin Marg, Sector-36-A, Chandigarh for its analysis and examination and only after having the report qua the same, necessary status report can be filed.

This Court was at a dismay to know that in Punjab the facility to examine the CD or any other video clip is not available either in FSL, Mohali or at the other 4 RFSLs situated at Mohali, Amritsar, Bathinda and Ludhiana.

It is under these circumstances an attempt was made by State of Punjab in its affidavit dated 8.08.2024 to explain that these four RFSLs including FSL situated at Mohali do not have the facility of audio, video identification system and video spectral comparator, mobile firing rest system and photography set up with digital SLR with PC Compatibility.

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In continuation thereof on 25.09.2024 while observing the budget and sanctioning of funds/expenses were noticed on 25.09.2024 from the proceedings in one CRM-A-2300-MA-2017 wherein two affidavits were filed including one by Dr. Rakesh Kumar Gupta, Chemical Examiner, Chemical Laboratory, Punjab Kharar showing sanction of Rs. 99.40 lakhs for upgradation of infrastructure of said lab at Kharar, apart from installing computers and other equipments for bar-coding.

Subsequently, another status report was filed in the aforementioned petition dated 17/18.01.2019 highlighting that project for upgrading of three Regional Testing Forensic Science Laboratories and one Chemical Examiner Laboratory in the State of Punjab was analysed and is underway wherein paragraph No.5 thereof read as under :-

(i) Video Conference equipment was procured for Forensic Science Laboratory, Punjab, Mohali, three Regional Testing Forensic Science Laboratories and one Chemical Examiner Laboratory;

(ii) An amount of Rs.99.40 lakhs is stated to be sanctioned as funds for procurement of equipment/Chemicals/furniture etc. for upgradation of Chemical Examiner Laboratory and Forensic Science Laboratories. Out of which orders worth Rs.49.00 lakhs stands issued and some of the items were reported to have been received;

(iii) Items worth Rs. 12 Lakhs in addition to above was also procured;

(iv) Funds to the tune of Rs 10 Crores and 10 Lakhs stood sanctioned for Forensic Science Laboratory, Punjab;

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(v) Recruitment of technical staff for Chemical Examiner Laboratory. Kharar and Forensic Science Laboratories:-

Advertisement has been issued for recruitment of 5 Analysts on 28/10/18 and written examination will be held on 12th February 2019 Department of Health and Family Welfare, Punjab is following up case for sanctioning of new posts in Chemical Examiner Laboratories in Government Medical Colleges. Director Health Services has already posted two Medical Laboratory Technologists and deputed three Class IV employees. That 48 new technical posts were created and filled for the newly established three Regional Testing Forensic Science Laboratories and Toxicology Unit-2 of Main Forensic Science Laboratory, Punjab, Mohali That in order to reduce the pendency State Government of Punjab has approved the opening of three new Chemical Examiner Laboratories in Government Medical Colleges at Amritsar, Patiala and Faridkot, in addition to the already functioning one Chemical Examiner Laboratory at Kharar. Land has been identified for constructing the buildings for Chemical Examiner Laboratories in the three Government Medical Colleges at Amritsar, Faridkot and Patiala. Building plans have been finalized by Chief Architect. PWD Department has submitted the estimated cost for the construction of laboratory in the Government Medical College, Faridkot, which has been forwarded to the concerned authorities for perusal and allotment of requisite funds. Construction of new Chemical Examiner Labs in three Government Medical Colleges may take about 18 months after the sanctioning of funds. Currently main Forensic Science Laboratory, Mohali and three Regional Testing Forensic Science Laboratories at Amritsar, Bathinda and Ludhiana are functional earlier there was only one Forensic Science Laboratory. Mohali till 2015.

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Another affidavit dated 01.05.2019 filed by Dr. Seema Sharda, Director, Forensic Science Laboratory, Punjab would depict as under:-

"(i) Funds to the tune of Rs.10.55 Crores stands sanctioned for Forensic Science Laboratory, Punjab in the financial year 2019-2019 by the Government of Punjab, Department of Home Affairs and Justice, Home-6 Branch;

(ii) Sophisticated instruments like Gas Chromatograph for Rs. 38,32,500/-, Barrel Scope for Rs.7,43,000/- and Refrigerated Cold Centrifuge for Rs.7,47,495 were purchased;

(iii) The tender for procurement of two numbers of Gas Chromatography-Mass Spectrometry-MS costing Rs.3.00 Crores approximately was finalised;

(iv) Audio/Video identification system and Video Spectral Comparator, Mobile Firing Rest System and Photography set up with Digital SLR with PC Compatibility costing Rs.2.5 Crores approximately was also finalised by tender;

(v) The process for the purchase of two numbers of Liquid Chromatograph-Mass Spectrometer-Mass Spectrometer and an Automated Ballistic Identification System for Rs.4.5 Crores approximately could not be completed due to single bid and re-tendering process was initiated afresh;"

Yet further as per the Secretary, Government of Punjab, Department of Home Affairs and Justice also filed an affidavit dated 12.04.2023 in CRM-A-2300-MA-2017 stating that all the four established FSLs/RFSLs are being upgraded but it was found to be a farce. In the instant petition through affidavit dated 28.08.2024, paragraph No. 2 reads as under :-

2. That it is submitted that in compliance with the order dated 09.08.2024 passed by this Hon'ble Court, the CD

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(Annexure P- 2) has been obtained and the same was sent to FSL, phase IV -SAS Nagar, Mohali (Punjab) for examination but the same was returned back the CIA, Tarn Taran with the remark/ report dated 22.08.2024 that facility for examination of video/DVR/CCTV does not exist in the Forensic Science Laboratory, Punjab. It is further submitted that now the said CD as well as pen drive has been deposited with the office of the Director, Central Forensic Science Laboratory, CIF'S Complex, Plot No. 2, Dakshin Marg, Sector 36-A, Chandigarh for analysis/ examination and after receipt of same, proper status report/reply will be submitted before this Hon'ble Court. Hence, a shortadjournment is required to comply with the order dated 09.08.2024 of this Hon'ble Court.'

On 19.11.2024, this Court was again apprised that the necessary equipments are still not available though the required process is under way and the State was directed to file an affidavit of the Home Secretary with the comprehensive schedule and action plan for upgradation of FSL, Mohali as well as RFSLs situated at Bathinda, Amritsar and Ludhiana within a period of two weeks.

The Director, FSL, Mohali while assisting the State Counsel stated that tender notice inviting bid will be published within a week and the meeting for technical specifications discussions were made on 14.11.2024 regarding purchase of forensic hardware and software and sought one month's time on 11.12.2024 for completion of said process.

Today, an affidavit of Dr. Ashwani Kalia, Director, Forensic Science Laboratory, Punjab, has been filed by learned State

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Counsel, the same is taken on record. Copy of the same has been furnished to the counsel opposite.

As per the meeting held by Technical Evaluation Committee for tendering on 09.01.2025 regarding E-tender-3(2024) for the supply and installation of Video Forensic Tools, the standing purchase committee will make recommendations for the purchase of Video Forensic Tools to verify the genuineness and veracity of CCTV footage or clips.

However, no time frame is coming forth in the affidavit as to within how much time such recommendations would be made final and necessary equipments for verifying the genuinity and veracity of CCTV footage or clips, placed in operation at the concerned four FSLs/RFSLs in the State of Punjab.

The learned State Counsel is duly assisted by Dr. Ashwani Kalia, Director, Forensic Science Laboratory, Punjab, who is present in Court submits that the necessary process will be completed within a period of four weeks from today. By the next date of hearing, equipment will be ready to verify the genuineness and veracity of CCTV footage or clips.

Dr. Kalia also intimates the process for the other three RFSLs could not be initiated for lack of funds/budget allocation as on date.

When this Court was not impressed with the reasons as suggested by him, he further came out with one more amazing plea that

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there is serious budget restraint to purchase the equipments for the rest of three RFSLS.

This Court cannot accept such response from the Director, Forensic Science Laboratory, Punjab wherein budget requirement and sanctioning of the same could have been expedited within a few hours or in a couple of days had the State Government shown its willingness to armour itself with the modern investigative/scientific techniques, especially, in this digital and artificial intelligence era.

By no stretch of imagination, the State could take a stand of shortage of funds or budget allocation for the purpose which is involved in the instant petition i.e. to investigate crime before this Court wherein otherwise also there is patently huge amount is spent.

There is inordinate delay in filing challans which finally results into providing undue leverage and advantages to accused only in these circumstances, law enforcing agency is required to be equipped with all necessary facilities.

Hence, the State Government, through its Chief Secretary is directed to furnish a detail of expenses met out in this running financial year i.e. from 01.04.2024 till 20.1.2025 on the publication of the advertisements qua the performance and achievements of the Government and the new vehicles purchased for the police officials. Necessary information to be furnished within a period of one week from today by way of an affidavit of Chief Secretary, Government of Punjab.

Adjourned to 29.01.2025

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Interim order to continue.

A photocopy of this order be placed on the file(s) of
connected case(s).

(SANDEEP MOUDGIL)
JUDGE

21.01.2025
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