

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

CNR No: PHHC010881782026

2026:PHHC:133356



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CRWP-6103-2026 (O&M)

Date of decision : 21.09.2026

Daljit Kaur and another

... Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vinod Ghai, Senior Advocate with
Mr. Arnav Ghai, Advocate and
Mr. Gaurav Datta, Advocate
for the petitioners.

Mr. Ferry Sofat, Additional Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in the present petition, filed under Article 226 of the Constitution of India, is for issuance of a writ, order or direction to the official respondents to protect the life and liberty of the petitioners and their family members guaranteed under Article 21 of the Constitution of India. A further prayer has been made for constitution of an independent Special Investigation Team (SIT), headed by senior police officers from outside District Ludhiana and Khanna and independent of the local police hierarchy or in the alternative, for transfer of the investigation to the Central Bureau of Investigation (CBI), for conducting a fair and impartial investigation into the alleged illegal detention of petitioner No.2, his illegal arrest in case bearing FIR No.67 dated 25.03.2026 registered at Police Station Payal, District

Ludhiana, the alleged custodial intimidation and demands of illegal gratification, the alleged midnight trespass into the residence of the petitioners, removal of CCTV/DVR equipment, cash and jewellery and the subsequent coercive actions allegedly initiated against the petitioners. The petitioners have also sought preservation of relevant electronic and documentary evidence and appropriate action against the police officials found responsible for the alleged unlawful acts.

2. Brief facts of the case as emanating from the petition are that the petitioners are the residents of Village Chari, Tehsil Khamanon, District Fatehgarh Sahib, Punjab. Petitioner No.2, Saudagar Singh, is stated to have served as Lambardar of the village for nearly two decades. The petitioners claim to have no criminal antecedents and submit that they belong to a settled agricultural family. The grievance of the petitioners arises from the alleged conduct of police officials of CIA Staff Khanna and other police stations in connection with their son, Shaganpreet Singh, who, according to the petitioners, was publicly disowned and disinherited by them in the year 2021 through a public notice and civil proceedings. It is their case that they have no relationship or connection with him thereafter but the police officials have been using the petitioners as a means of exerting pressure upon him as he is residing abroad and is allegedly involved in criminal cases.

3. As further discernible from the record, the aforementioned FIR No.67 dated 25.03.2026 was registered at Police Station Payal, District Ludhiana, under Sections 308 and 351(2) of BNS, 2023 initially against one Doni Bal, on the allegation of threatening calls and ransom demands received by the complainant. The petitioners allege that neither of them was named in

the FIR at the time of its registration. However, petitioner No.2 was subsequently nominated on the basis of information furnished by Vikas Menro, who was not the complainant in the said FIR. Petitioner No.1 was stated to have been implicated on the basis of a disclosure statement. The petitioners allege that on the intervening night of 29/30.03.2026, persons in civil clothes entered into their residence and took away petitioner No.2 without disclosing the grounds of arrest, serving any notice or furnishing an arrest memo. It is further alleged that petitioner No.2 was subsequently shown to have been arrested from Bus Stand Majri on the basis of secret information. The petitioners claim that during the intervening period, officials of CIA Staff Khanna contacted their family members and exerted pressure upon them to secure the return of their son from abroad. They further allege that threats of false implication and serious consequences were extended, along with demands for illegal gratification. The petitioners are relying upon the order dated 02.05.2026 passed by the learned Additional Sessions Judge, Ludhiana, in BA No.3620 of 2026, whereby petitioner No.2 was granted regular bail in FIR No.67. The said order records, inter alia, that petitioner No.2 had neither threatened the complainant nor sent any voice message to him, that he was not named in the FIR and that he had been arrested on the information of a person who was not the complainant. The learned Court also noticed the civil proceedings through which the petitioners had disowned their son and observed that petitioner No.2 was not required for further custodial investigation.

4. Thereafter, another FIR bearing No.90 dated 24.04.2026 was registered at Police Station Doraha under Sections 308(4), 351(2) and 61(2) of

BNS, 2023. The petitioners allege that petitioner No.2 was arrested in the said case through production warrants. The learned Additional Sessions Judge, Ludhiana, vide order dated 15.05.2026, granted regular bail to petitioner No.2, observing that he had not been named by any complainant and that there was no likelihood of his influencing witnesses or fleeing from justice. Then, FIR No.101 dated 01.05.2026 was subsequently registered at Police Station City Khanna in connection with an alleged firing incident at Prem Vaishno Dhaba. The FIR was registered under Sections 109, 308(4), 351(3) and 61(2) of BNS, 2023 along with provisions of the Arms Act. As per the petitioners, they were not named as accused in the said FIR, although their son Shaganpreet Singh was named as one of the accused. The petitioners further allege that, after submitting representations to senior police authorities, including the Director General of Police, Punjab, and Vigilance authorities, police officials again visited their residence during the intervening night of 19/20.05.2026. It is alleged that both petitioners were forcibly taken away and the police officials had entered into the premises by scaling the boundary walls and that the CCTV/DVR system, cash and gold jewellery were removed. Aggrieved from the same, the petitioners have filed the present petition.

5. It is argued by learned senior counsel for the petitioners that they are elderly persons with no criminal antecedents and have been subjected to repeated police action solely on account of their estranged son, whom they had publicly disowned and disinherited in the year 2021. It is argued that the successive FIRs, alleged illegal detention, threats and demands for illegal gratification disclose a continuing course of coercive conduct by the local

police authorities. Learned senior counsel further argued that petitioner No.2 was taken into custody from his residence during the intervening night of 29/30.03.2026 but was subsequently shown to have been arrested from Bus Stand Majri on the basis of secret information. It is submitted that the alleged prior custody and the subsequent arrest narrative raise serious questions regarding the legality of the arrest and compliance with the safeguards governing arrest and detention.

6. Learned senior counsel has further argued that the orders granting regular bail to petitioner No.2 in FIR Nos.67 and 90 demonstrate that he was not named in the respective FIRs and that the learned Additional Sessions Judge had noticed the absence of material requiring his further custodial detention. It is submitted that, notwithstanding the aforesaid orders, the petitioners were subjected to successive coercive proceedings, which disclose an abuse of the criminal process. It is further argued that the alleged demands of approximately Rs.20,00,000, threats to the petitioners and their family members, and the alleged removal of CCTV/DVR equipment from their residence require an independent investigation. Learned senior counsel submitted that the local police authorities themselves are alleged to be involved in the complained-of acts and, therefore, entrusting the investigation to the same police establishment would not inspire confidence or ensure a fair and impartial inquiry. Learned senior counsel further argued that the alleged illegal detention, custodial intimidation, extortion, trespass and destruction or removal of electronic evidence involve violations of the fundamental rights guaranteed under Articles 14, 21 and 22 of the Constitution of India. It is submitted that the Court, in exercise of its jurisdiction under Article 226, can

direct an investigation by the CBI in appropriate cases, even without the consent of the State Government. On these grounds, learned senior counsel has urged that appropriate directions be issued for the protection of the life and liberty of the petitioners and their family members, preservation of relevant evidence and constitution of an independent SIT or transfer of the investigation to the CBI in accordance with law. To fortify his arguments, learned senior counsel has relied upon *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416; *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273; *State of West Bengal v. Committee for Protection of Democratic Rights, West Bengal*, (2010) 3 SCC 571; *K.V. Rajendran v. Superintendent of Police, CBCID*, (2013) 12 SCC 480; and *Pooja Pal v. Union of India*, (2016) 3 SCC 135.

7. Learned State counsel, while referring to the reply filed on behalf of the State, has argued that the allegations of illegal detention and arrest of the petitioners are incorrect. It is submitted that petitioner No.2 was arrested on 30.03.2026 in FIR No.67, whereas both the petitioners were arrested on 19.05.2026 in FIR No.101 after following the due procedure of law. It is further argued that the petitioners are involved in several cases relating to extortion and that the investigation has revealed their alleged involvement in the commission of offences. Learned State counsel submits that the DVR from the house of the petitioners was taken into possession as case property and sent to the FSL, whose report is awaited. It is further submitted that the allegations regarding the removal or destruction of electronic evidence and demand of Rs.20,00,000/- by the police are baseless. The investigation is being conducted under the supervision of the concerned DSPs and the State

undertakes to preserve or produce the relevant CCTV footage, CDRs and other records, if so directed by this Court.

8. This Court has heard the rival submissions at considerable length, besides going through the material placed on record.

9. Two questions arise for consideration. The first is whether, on the material presently available, a case is made out for the extraordinary step of transferring the investigation to the CBI or constituting a separate SIT. If the answer to the first question is in the negative, whether some lesser measure is called for to ensure that the investigation remains fair and the evidence having bearing on the petitioners' allegations is preserved.

10. The petitioners have approached this Court alleging, inter alia, that they were illegally detained by the police, subjected to pressure and threatened with regard to the payment of money. Allegations have also been levelled regarding the removal of the DVR installed at their residence, along with cash and jewellery, and non-preservation of CCTV footage and other electronic evidence. The State, in its reply, has denied the allegations of illegal detention and has submitted that the petitioners were arrested in the aforementioned cases in accordance with law. It has further been stated that the DVR was taken into possession as case property and sent to the FSL, and that the report is awaited. It is evident from the reply of the State that the petitioners and their son have come to be named in more than one criminal case registered in connection with allegations of extortion, threats and firing incidents and the State has referred to the statements of certain accused persons, the alleged financial transactions and other material collected during investigation to support the involvement attributed to the petitioners. The

petitioners, on the other hand, point out that they were not named in the FIRs at the time of their registration, and the aforesaid orders passed by the learned Additional Sessions Judge, Ludhiana, granting regular bail to petitioner No.2 in case bearing FIR Nos.67 and 90 show that they were falsely implicated in those cases. However, at this stage, this Court is not required to examine the evidentiary value of the disclosure statements, financial transactions or other material collected by the investigating agency nor to treat the observations made in the bail orders, which were rendered for the limited purpose of deciding those applications, as findings on the merits. Any observation on these aspects may prejudice the rights of the parties and the pending investigation.

11. At the same time, the allegations raised by the petitioners cannot be ignored merely on the ground that several criminal cases are registered against them. The protection of Articles 21 and 22 of the Constitution is not confined to persons against whom no accusation has been levelled. The Hon'ble Supreme Court has observed in a catena of cases that a citizen does not shed his fundamental right to life and personal liberty the moment a police officer arrests him. This right cannot be denied to convicts, under-trials, detenus and other prisoners in custody except according to the procedure established by law. Any form of torture or cruel, inhuman or degrading treatment falls within the inhibition of Article 21, whether it occurs during investigation, interrogation or otherwise. Reliance in this regard can be placed upon *D.K. Basu's case (supra)*. In *Joginder Kumar's case (supra)*, it has been held by the Hon'ble Supreme Court that the police must be able to justify an arrest independently of the bare power to make it and that no arrest

is to be made in a routine manner on a mere allegation. Reference can also be made to *Arnesh Kumar's case (supra)*, wherein the caution against casual arrest was reiterated by the Hon'ble Supreme Court. The requirements laid down in *D.K. Basu's (supra)*, i.e., identification of the arresting personnel, a memo of arrest attested by a witness and countersigned by the arrestee and prompt intimation to a relative or friend, have since found statutory expression in Sections 36 and 48 of BNSS, 2023, while Section 47 BNSS, read with Article 22(1) of the Constitution requires that the grounds of arrest be communicated to the arrestee, whereas Section 58 BNSS, read with Article 22(2), bars detention beyond twenty-four hours in the absence of an order of the Magistrate. These safeguards apply irrespective of the gravity of the accusation against, or the antecedents of, the person arrested.

12. The requirement of a fair investigation is an essential facet of the constitutional guarantee of fair, just and reasonable procedure under Article 21 of the Constitution. The Constitution Bench in *State of West Bengal's case (supra)* has held that Article 21 takes within its fold the rights of the victim as well as those of the accused and that the State is under a duty to ensure a fair and impartial investigation against any person accused of a cognizable offence, which may include its own officers. A fair and proper investigation is one that is unbiased, honest, just and in accordance with law, and whose entire emphasis is to bring out the truth before the court of competent jurisdiction. Similar views were expressed by the Hon'ble Supreme Court in *Pooja Pal's case (supra)*, while referring to *Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762*). The investigating agency is, therefore, required to conduct the investigation in accordance with law, fairly,

impartially and without bias and this standard applies equally to the inquiry into the allegations made against police officials themselves. The registration of criminal cases against a person does not authorise the investigating agency to act beyond the provisions of law or to disregard the safeguards available to an accused.

13. Recognition of this duty does not, however, entitle a litigant to have the investigation taken out of the hands of the State police as a matter of course. The power of a Constitutional Court to direct investigation by the CBI or another independent agency is wide but it is extraordinary. In the very decision on which the petitioners rely, the Constitution Bench cautioned that such a direction is not to be issued routinely, nor merely because a party alleges partiality on the part of the local police and that the power is to be exercised "sparingly, cautiously and in exceptional situations", where it becomes necessary to lend credibility to the investigation and instil public confidence, where the incident has national or international ramifications, or where it is necessary for doing complete justice and enforcing fundamental rights. A three-Judge Bench of Hon'ble Supreme Court in *K. V. Rajendran's case (supra)*, as also noticed in *Dharam Pal v. State of Haryana, (2016) 4 SCC 160*, has summarised that such a transfer is to be ordered only in rare and exceptional cases, such as where high officials of the State are involved, where the accusation is against the top officials of the investigating agency, who may thereby influence the investigation, or where the investigation is prima facie found to be tainted or biased. Even when the power is invoked, the suspicion must rest on some base and foundation and cannot be a figment of imagination.

14. Tested on these principles, the material before this Court does not, at this stage, justify the extraordinary course of transferring the investigation to the CBI or constituting a separate SIT. The apprehension of the petitioners is founded on the conduct attributed to certain officials of CIA Staff Khanna and other police stations, which the State has denied. Nothing on the record, as of now, shows that the State police as a whole, or its senior hierarchy, is incapable of or unwilling to conduct, a fair investigation. The investigation, according to the State, is being conducted under the supervision of the concerned DSPs. The competent criminal courts are seized of the matter and, in the case of petitioner No.2, have already examined the circumstances of his implication and granted him regular bail in aforementioned cases, which indicates that the judicial scrutiny contemplated by law is functioning. The FIRs, moreover, concern allegations of extortion and firing at the instance of complainants who are not before this Court. Article 21 protects their interest in an investigation that is effective and is not derailed, just as it protects the interest of the petitioners in one that is fair. A wholesale change of the investigating agency, on allegations that are yet to be tested, would not be free from the risk of prejudice to that interest. At the same time, the grievance of the petitioners is not a bald one and it would be equally unreasonable to dismiss it as such. Certain circumstances emerge from the record itself. The State itself admits that the DVR was taken from the residence of the petitioners and the versions of the parties as to the manner, time and place of taking the petitioners into custody differ, particularly in relation to the night of 29/30.03.2026, when petitioner No.2 is said by the petitioners to have been taken from the residence, whereas the

arrest shown in FIR No.67 is of 30.03.2026 from Bus Stand Majri. These disputes are capable of being resolved by objective records, such as the arrest memos and grounds of arrest, the general diary entries, the records of medical examination and of production before the Magistrate, the CCTV footage of the police stations and offices concerned, and the call detail records and location data of the officials and the petitioners for the relevant dates. The prayer in this petition is not for release from custody or for a declaration that the arrests are vitiated, but for an independent investigation and the preservation of evidence, and this Court is not, therefore, called upon to adjudicate the legality of the arrests. It must nevertheless be observed that the safeguards under Article 22(1) are not matters which the State can establish by a bare assertion of compliance, when an arrestee alleges that the grounds of arrest were not communicated, the burden lies on the police to prove compliance, ordinarily by a contemporaneous record, and neither the bare information of arrest nor a vague diary entry is a substitute for it. Reliance in this regard is placed upon *Vihaan Kumar v. State of Haryana, 2025 INSC 162* and *Mihir Rajesh Shah v. State of Maharashtra, (2026) 1 SCC 500*.

15. So far as the DVR is concerned, its custody with the police is admitted. It is at once case property in FIR No.101 and, potentially, a contemporaneous record of what transpired at the residence of the petitioners on the night in question, including the number and identity of the persons who entered, the manner of entry and the time, and it thus bears upon the allegations of the petitioners as much as on the case of the State. Electronic records are more susceptible to tampering and alteration than other forms of

evidence and the law insists on safeguards to ensure their source and authenticity.

16. This Court is also conscious of the fact that the investigation of a criminal case is primarily within the domain of the investigating agency, which forms part of the executive and that ordinarily the Court would not interfere with it or substitute its own views for those of the investigating officer. That domain is not, however, immune from constitutional scrutiny; where the manner in which an investigation is being conducted is questioned on grounds which have a foundation, the Court can issue appropriate directions to ensure that the investigation remains fair and inspires confidence. The Hon'ble Supreme Court has drawn a distinction between the monitoring of an investigation, which is meant to ensure that it proceeds in a free, fair and time-bound manner without external interference and without directing or channelling its mode or manner, and its supervision by a court, which it has described as "a contradiction in terms". Reference in this regard can be made to *Manohar Lal Sharma v. Principal Secretary, (2014) 2 SCC 532*. The arrangement directed below is, accordingly, not one of supervision by this Court; it is an internal, departmental safeguard within the police hierarchy itself, for which the statutory scheme provides, since police officers superior in rank to an officer in charge of a police station may exercise his powers throughout the local area to which they are appointed. In the facts and circumstances of the present case, this Court is of the considered view that, instead of directing the transfer of investigation to the CBI or constituting a separate SIT at this stage, the interests of justice would be met by directing supervision of the investigation by a senior IPS officer who is not directly

connected with the investigation. Such an arrangement would provide an additional level of caution and would also ensure that the allegations raised by the petitioners, including those relating to the preservation and examination of electronic evidence, are duly considered. It is proportionate to what has been shown, does not displace the statutory role of the investigating officer, and casts no reflection on the State police as a whole. Such supervision is intended to ensure compliance with law and cannot be understood as a direction to the investigating agency to proceed against any person in a particular manner. The supervising officer shall ensure that the investigation is conducted independently, fairly and in accordance with law. He shall also examine whether all relevant material, including the DVR, CCTV footage, electronic records, financial transactions and the other records referred to in the preceding paragraphs, has been properly secured, examined and dealt with in accordance with the requirements of the investigation. However, the supervising officer shall not interfere with the independent assessment of evidence by the investigating officer or direct the outcome of the investigation.

17. Accordingly, without expressing any opinion on the merits of the allegations contained in the FIRs or the defence of the petitioners, the present petition is disposed of with the following directions:

- (i) The Commissioner of Police, Ludhiana, shall ensure that the investigation in aforementioned FIR Nos. 67, 90 and 101 is supervised by a senior IPS officer not below the rank of Deputy Inspector General of Police, who shall not be directly connected with the investigation.

- (ii) The supervising officer shall monitor the progress of the investigation and ensure that the same is conducted fairly, objectively and strictly in accordance with law.
- (iii) The supervising officer shall ensure that the DVR already taken into possession, the FSL report, CCTV footage and other relevant electronic evidence are duly preserved and examined in accordance with law.
- (iv) The allegations raised by the petitioners regarding illegal detention, demand of money and removal or destruction of electronic evidence shall be considered in accordance with law, without being influenced by any observation made in the present order.
- (v) The investigating agency shall remain at liberty to proceed in accordance with law. Nothing stated in this order shall be construed as an expression of opinion on the merits of the pending criminal cases or the involvement of any of the accused.

18. The present petition stands disposed of in the above terms.

21.09.2026
Waseem R. Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>