



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

**CRWP-5099-2024**

**Date of decision: 31.07.2024**

**Karan Kumar @ Ashu and another**

**.....Petitioners**

**versus**

**State of Punjab and others**

**..... Respondents**

**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

**\*\*\***

Present :- Mr. Sonpreet S. Brar, Advocate and  
Mr. Manan Ahlawat, Advocate  
for the petitioners.

Mr. J.S. Arora, DAG, Punjab.

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**RAJESH BHARDWAJ, J. (Oral)**

1. Prayer in the present petition is for directing respondent No.1 for releasing the petitioners from an illegal confinement as the petitioners was wrongly detained on 06.04.2024 and thereafter shown to be arrested after fake encounter on 07.04.2024 in FIR No.0125 dated 07.04.2024, under Sections 307, 34 of IPC and Sections 25, 27 of Arms Act, Police Station City Faridkot, District Faridkot, however, produced before Magistrate on 11.04.2024 i.e. after the period of 05 days of detention by the police, which is a complete violation of Sections 57, 167(1) of Cr.P.C. and Article 22 of the Constitution of India.

2. It has been contended by counsel for the petitioners that petitioner No.1 was picked up by the police on 06.04.2024 from his house and petitioner No.2 was picked up from his house situated at Basti Peer Das. The vehicles which were used by CIA staff could be seen in the photographs of the locality in Jalandhar in the abovesaid addresses. It is submitted that the petitioners were brought to the CIA Staff, Faridkot without informing any person the reasons for their arrest. Subsequently,



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the mother of petitioner was also brought to CIA Staff, Faridkot but in the Evening on 06.04.2024, mother of petitioner No.2 was released by the CIA staff, Faridkot. He has submitted that on 07.04.2024, petitioners were arrested but since 07.04.2024 to 10.04.2024, no application seeking their remand or custody was moved before the Magistrate which is in violation of Section 57 Cr.P.C. read with Section 167(1) Cr.P.C. He submits that aggrieved by their illegal detention, petitioners filed the application for bail under Section 57 Cr.P.C. read with Section 167(1) Cr.P.C. as they had not been produced before the learned Magistrate even after lapse of 05 days since the date of their arrest i.e. 06.04.2024. However, the same was dismissed by the learned Magistrate on the ground that there was no right of bail on the ground of illegal confinement under Section 57 Cr.P.C. or Section 167(1) Cr.P.C. vide impugned order dated 11.04.2024. He further submits that the impugned order is illegal and unsustainable in the eyes of law and thus, petitioners deserve to be granted bail on the ground of illegal confinement.

3. Learned State counsel on the other hand has opposed the submissions made by counsel for the petitioners. He has submitted that the contentions raised by counsel for the petitioners are beyond the evidence on record and the learned Magistrate had committed no illegality in passing the impugned order. He has submitted that during the occurrence, the petitioners suffered injuries during the gunshot and they were admitted in the hospital. It is after their discharge, they were arrested and produced before the learned Magistrate. Thus, there being no illegal confinement, petition being devoid of any merits, deserves to be dismissed.



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4. Heard. On hearing counsel for the parties and perusing the record, it is apparent that the petitioners were produced before the learned Magistrate for the police remand for 05 days which was opposed by counsel for the petitioners. It was specifically contended by counsel for the petitioners that the petitioners were in police custody on 07.04.2024 and were kept in illegal confinement till 10.04.2024. However, as per the record submitted by the State, the petitioners were injured by the gun shot on 07.04.2024 and hence, they were admitted in GGSMC Hospital under the police guard. On 10.04.2024, they were discharged from the hospital and hence, their arrest was effected on 10.04.2024. Thus, it is evident that the petitioners remained in the hospital from 07.04.2024 to 10.04.2024 when they were apprehended. Thereafter, they were produced before the learned Magistrate for the remand. As per submissions made, challan has already been presented and the learned Court has taken cognizance of the case. Thus, the contentions raised by counsel for the petitioners are totally disputed question of facts which deserves to be appreciated on appreciation of the evidence led before the learned trial Court.

5. Thus, this Court finds no merit in the petition and hence, the petition is disposed of with liberty to the petitioners to raise their grievances before the learned trial Court who would appreciate the same in accordance with law.

31.07.2024  
*m. sharma*

( **RAJESH BHARDWAJ** )  
**JUDGE**

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No