

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

**CRM No. M-2325 of 2014 (O/M)
Date of decision : May 31, 2016**

Neetu Kapoor

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Petitioner in person along with Mr. Navkiran Singh and
Mr. Navratan Singh, Advocates.

Mr. Ashish Sanghi, DAG, Punjab.

Mr. Sumeet Goel, Standing counsel for C.B.I.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Petitioner Neetu Kapoor, sister of Manoj Kapoor has approached this Court under Section 482 Cr.P.C. for fair and proper investigation of case FIR No.133, dated 26.05.2014, under Sections 364 and 120-B IPC, registered at Police Station Kotwali Faridkot, District Faridkot and to hand over the same to Crime Branch or some independent agency or some senior officer.

Manoj Kapoor, brother of the petitioner was working as contractor of SIS Company Banking, which used to load cash in the ATM maintained by the Government and private banks and his duty was to load cash. On 25.05.2014, it was Sunday, at about 10.30 a.m., Manoj Kapoor received a call by one unknown person that he wants to have insurance of

₹8 lac and Manoj Kapoor told that person to come to home but Manoj Kapoor informed the petitioner that the said unknown person is insisting him to come to them for insurance. Thereafter, Manoj Kapoor went away and did not return till 26.05.2014. As a result of which, Neetu Kapoor approached the police and lodged the present FIR.

It comes out that the police started investigation but was unable to trace out Manoj Kapoor. Thereafter, when the petitioner approached this Court. This Court called various status reports from the police regarding the investigation in the case. Different police officers filed different status reports, which indicate that the police has taken into possession the CCTV footage of the said ATM and also examined some suspects. Some of the suspects were also subjected to lie detecting test but Manoj Kapoor could not be traced out nor the real culprits were apprehended. The police is stated to have investigated the matter in the adjoining states also.

It comes out that later on, an SIT was constituted headed by DIG Kunwar Vijay Pratap Singh, which conducted the investigation and filed different status reports. In the different status reports, it was stated that the SIT had conducted the investigation in the adjoining states and done its best possible but the fact remains that Manoj Kapoor is still untraceable.

Learned State counsel, on instructions from Inspector Surjit Singh, states that the State has no objection if the investigation is handed over to some other agency other than the agency of the Punjab Government.

Reply on behalf of Central Bureau of Investigation (in short 'C.B.I.') has been filed in the Court today and the same is taken on record. In its reply, C.B.I. has referred to the judgment of Hon'ble the Supreme Court

of India delivered in case of *“State of West Bengal and others vs Committee for Protection of Democratic Rights and others” 2010 (3) SCC, 571*, wherein the Hon'ble Supreme Court laid down certain basic guidelines for transfer of cases from State Police to C.B.I. It was laid down that it should be done in the cases, where it becomes necessary to provide credibility and instill confidence in investigations or where the incident may have national or international ramifications or where such an order may be necessary for doing complete justice and enforcing fundamental rights.

On behalf of C.B.I., it has been argued that the agency is already over burdened. It is running short of staff. Therefore, the matter may be transferred to the State Bureau of Investigation.

After having considered the facts and circumstances of the case, I am of the view that C.B.I. has the expertise to detect the crime, which appears to have been committed in the present case. Invariably the State police is put on some other duties, which result in deviation from their duties to carry out the investigation in a fair manner.

In the present case, some photographs have been placed on file, which show that two persons, who appear to be from outside the state, were operating the ATM from which ₹19.70 lac are stated to have been removed and looted. Manoj Kapoor was deputed to load the cash in the said ATM and he knew the PIN number/password to open the said ATM. The aforesaid photographs further show that it appears that at least two persons are involved in the aforesaid removal/loot of cash.

After disappearance of Manoj Kapoor on 25.05.2014, he has not contacted his family members. Therefore, there is strong apprehension

that Manoj Kapoor might have been abducted. The password was extracted from him and some crime might have been committed with Manoj Kapoor. The possibility of inter state ramifications or interstate gang is also there. Therefore, the present case is a fit case, which meet the parameters laid down in *State of West Bengal's case (supra)*.

It is necessary to instill confidence in the investigation. C.B.I. has got the skills to crack such cases. Therefore, the investigation of case FIR No.133, dated 26.05.2014, under Sections 364 and 120-B IPC, registered at Police Station Kotwali Faridkot, District Faridkot is withdrawn from the Punjab Police and is entrusted to C.B.I. However, since C.B.I. is stated to running short of staff, therefore, the Director General of Police, Punjab is directed to provide infrastructural support to C.B.I. in carrying out the investigation. The police is directed to hand over the record of this case to C.B.I., Chandigarh Branch, Sector 30, Chandigarh, immediately.

The present petition is, accordingly, allowed.

सत्यमेव जयते

(KULDIP SINGH)
JUDGE

May 31, 2016
sarita