

Judgment Sheet
IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT

Writ Petition No.79470-H/2023
(Jamila Bibi vs. SHO, etc.)

JUDGMENT

Date of hearing:	11.12.2023
Petitioner by:	Ch. Shahid Pervaiz Kahloon, Advocate.
State by:	Mr. Shahid Nawab Cheema, Assistant Advocate General Punjab with Syed Ali Nasir Rizvi, DIG (Operations) Lahore, Imran Kishwar DIG (Investigation) Lahore, Waqar SHO, Akram ASI and Murtaza ASI.
Amicus Curiae:	Mr. Najeeb Faisal Chaudhary, Advocate.

ALI ZIA BAJWA, J.:- By dint of the instant Constitutional Petition filed under Article 199 of the Constitution of The Islamic Republic of Pakistan, 1973 (hereinafter '*the Constitution*') read with Section 491 of the Code of Criminal Procedure, 1898 (hereinafter '*Cr.P.C.*') the petitioner seeks recovery of the detenues namely Shahbaz Ali, Asim and Tahir Imran, from the illegal, improper and unauthorized custody of respondents No.3 & 4.

2. Arguments heard and the record available on the file perused.
3. After the filing of the instant petition, vide order dated 04.12.2023, the Bailiff of this Court was deputed to recover the aforementioned detenues. In pursuance of that order, the Bailiff inspected the premises of Police Station Baghbanpura, Lahore where Shehbaz Ali detainue was found locked up in connection with the case FIR No.2171/2023, dated 02.05.2023, registered under Section 356 of the Pakistan Penal Code, 1860 with the aforementioned police station. It was informed by the police officials that the rest of the two detenues were neither required in any

criminal case nor they were in their custody. The Station Diary of the said police station was also produced before the Court, which reflected that although the arrest of Shahbaz Ali/detenué was incorporated therein but that Diary was maintained in sheer violation of Article 167 of the Police Order, 2002 (hereinafter '*the Order*') and the Punjab Police Rules, 1934 (hereinafter '*the Rules*'). As the matter pertains to the life and liberty of the citizens, a notice was issued to the Inspector General of Police, Punjab to explain afore-stated state of affairs.

4. Rule 22.45 of the Rules requires the maintenance of different registers at a Police Station. This Rule enlists 25 types of books to be maintained at the Police Station. The Station Diary or Daily Diary (hereinafter '*Station Diary*') is mentioned at serial No.2 which is commonly known as "*Roznamcha*" and maintenance of the same is a matter under discussion. The Station Diary is the most significant document retained at a Police Station, which has been designed to keep a check on the enormous powers bestowed upon the police authorities. The Station Diary is maintained under Article 167 of the Order and Rules 48 & 49 of Chapter 22, Volume III of the Rules, Article 167 and Rules 22.48 have been provided as infra: -

"167. Maintenance of Daily Diary at a police station.— (1) A register of Daily Diary shall be maintained at every police station in such form as shall, from time to time, be prescribed and to record therein the names of all complainants, persons arrested, the offences charged against them, the weapons or property that shall have been taken from their possession or otherwise, and the names of the witnesses who shall have been examined.

(2) The District and Sessions Judge of the district may call for and inspect such Diary.

22.48. Register No. II. - (1) The Daily Diary shall be maintained in accordance with section 44 of the Police Act. It shall be in Form 22.48(1) and shall be maintained by means of carbon copying process. There shall be two copies. One will remain in the police station register and the other shall be despatched to a Gazetted Officer to be designated by the Superintendent of Police or to the Superintendent of Police himself every day at the hour fixed in this behalf.

Shortly before the close of each quarter, books containing the proper number of pages for the ensuing three months shall be issued to police stations by the Superintendent. The Superintendent shall fix the hours at which station diaries shall be daily closed with reference to the hour of despatch of the post or messenger.

(2) *The daily diary is intended to be complete record of all events which take place at the police station. It should, therefore, record not only the movements and activities of all police officers, but also visits of outsiders, whether official or non-official, coming or brought to the police station for any purpose whatsoever.*

(3) *All entries in the station diary shall be made by the officer in charge of the police station or by the station clerk. Literate officers making a report shall read the report recorded and append their signatures. Every matter recorded in such diary shall be so recorded as soon as possible; each separate entry shall be numbered and the hour at which it was made shall commence each such entry. If the hour at which the information, or otherwise, containing such entries reaches the police station differs from the hour at which such entry was made, both hours shall be stated. As soon as entry has been made in the diary, a line shall be drawn across the page immediately below it.*

(4) *The opening entry each day shall give the name of each person in custody, the offence of which he is accused, and the date and hour of his arrest, the name of each accused person at large on bail or recognizance and the date of his release on such security.*

The last entry each day shall show (a) the balance of cash in hand as shown in the cash account, and (b) the balance of the cattle-pound account."

5. A Station Diary is a register required to be maintained to record day-to-day events that take place in a Police Station. Rule 22.49 of the Rules elaborates the matters to be entered in Station Diary. For effective monitoring of daily work schedules in a Police Station, to monitor such works in a regulated manner and to ensure that duties are discharged by the police officer as it would involve balancing the rights of people, be that of the accused or that of the victim of crimes or the society in general, said "Diary" is to be maintained at all Police Stations. The Station Diary is used to record every major and minor incident occurring within the jurisdiction of the Police Station in chronological order. Station Diary is the main record of the affairs of the Police Station and should contain everything of importance relating to the working of the Police Station. Some of the entries in the Station Diary are amplified and recorded in other books as well but all the important things must be entered in this book. The Station Diary is a chronological record of the happenings at the Police Station and for fixing the time of any particular action of the police, the entry in the Station Diary provides an important source of evidence. It ensures transparency and fairness in the proceedings carried out by the police officers relating to their duties in a Police Station. It rules out the arbitrariness and whimsical exercise of powers by a police officer.

6. Details of information of cognizable offences or investigations already given in the First Information Book and the case diaries need not be reported in the Station Diary, but a gist of the information and a record of occurrences in the Police Station in connection with those cases, such as the receipt of information, the arrest of the accused persons, the production of a prisoner, the affecting of searches, seizures or the departure for or return from, of investigating officers, particulars such as identification parades and inspections held or attended, attendance at courts including submission of reports and charge sheets in the court, town patrols, assistance to officers of other Police Stations, etc., should be entered.

7. In cases where the question of illegal detention of a person in police custody is involved, Station Diary is of utmost importance to determine the transparency and fairness in the process of arrest and detention. Any violation of statutory law that results in illegal arrest and detention shall also be violative of Articles 4, 9, 10, 10-A, 13 and 14 of the Constitution. Under Article 4 of the Constitution public functionaries including police are bound to act in good faith, honestly and within the precincts of their power so that persons concerned should be treated in accordance with law. Article 9 of the Constitution guarantees that no person would be deprived of life or liberty save in accordance with law; while Article 10 of the Constitution provides safeguards as to arrest and detention.¹ Article 10-A, which guarantees the right to have a fair trial to all citizens, also comes to rescue an arrested and detained person as it also applies to all the pre-trial proceedings including arrest and detention during an investigation. Articles 13 and 14 of the Constitution protect an accused against self-incrimination and torture. Any violation of law during the arrest and detention of a person would breach the constitutional guarantees and would lead to grave legal consequences.

8. Maintenance of Station Diary in accordance with the relevant law goes a long way to provide a mechanism against illegal arrest and detention as ensured under the Constitution. Introducing any device to bypass the mandatory requirements of the Rules shall amount to disregarding the constitutional guarantees. Through Notification No.

¹ Rehan vs. The State – 2009 SCMR 181

43604/DIG/I.T dated 15-12-2017, issued by the Provincial Police Officer, Punjab with the approval of the Provincial Government, it was directed to make an Amendment in Rules 22.3 and 22.4 of the Rules. Through this Amendment in the Rules, in addition to the hard copy of the Police Registers, a soft copy (electronic copy) shall also be maintained. It has been observed by this Court that in a number of cases pertaining to arrest and detention, maintenance of computerized record of Station Diary is used as a tool to shield the illegalities committed by police officials.

9. The cognizance was taken by the worthy Chief Justice of this Court in the case titled Mst. ASMAT PARVEEN vs. The STATE and another – PLD 2021 Lahore 105 and it was ruled that there is a pearl of wisdom underlying maintaining the manual Station Diary to rule out the possibility of any fabrication or alteration, which can easily be incorporated in the soft copy. It was further observed that in all eventualities a soft copy could never be a substitute for a manual record of police registers. It was directed to the Inspector General of Police, Punjab to maintain the manual record of Station Diary and in addition to that, a soft copy of the same shall also be prepared. Maintenance of a hard copy of the Station Diary is also indispensable as it can easily be produced before the Courts for examination to spotlight the illegalities committed by police officials. Examination of the soft copy of the entire record of Station Diary of a Police Station is also not convenient because any alteration or fabrication therein cannot be determined without a complete forensic analysis which might take extensive time. Leaving the scope of the power of Provincial Police Officer under Article 112 of the Order, regarding making an Amendment in the Rules, to be deliberated in some other appropriate case, it is observed that it shall be mandatory for the concerned police officials to maintain the manual copy of Station Diary and in addition to that a soft copy shall also be prepared. A report on behalf of the Inspector General of Police, Punjab has been filed, which reflects that Station Diary, in every Police Station, shall be maintained in accordance with the Rules. The Station Diary shall also be maintained digitally in addition to its manual record.

10. A self-explanatory procedure has been provided in Rules 22.48 and 22.49 of the Rules regarding the maintenance of Station Diary, which

further needs no elaboration. However, I am persuaded to issue clear directions to the concerned police authorities regarding the maintenance of Station Diary, as infra: -

- I. In every Police Station, a Station Diary shall be maintained in accordance with Article 167 of the Order and Rules 22.48 & 22.49 of the Rules. A strict adherence to the aforesaid provisions of law shall be ensured without further fail.
- II. Maintaining a computerized record of Station Diary is the need of the hour but the same cannot be permitted to be used to open a new venue to cover or legitimize the illegalities committed by the delinquent police officials, therefore, the computerized record of Station Diary shall be prepared in addition to the manual record. In case of any conflict between the two, the preference shall be given to the manual Station Diary.
- III. Any wrong entry in the Station Diary by a police officer shall ordinarily entail his dismissal from the service as per Rule 22.50 of the Rules. Zero tolerance in this regard should be shown by the supervisory officers and in case of failure on the part of the supervisory officer to do the needful, he shall be accountable for the same.
- IV. Properly printed books, to maintain the Station Diary, containing the proper number of pages, should be issued to every Police Station by the concerned Superintendent of Police. Only duly issued books shall be used for maintaining the Station Diary to rule out the possibility of any fabrication and alteration in the same. A Station Diary without page numbers creates room for modification and alteration.
- V. Wrong entries in the Station Diary should be scored out by means of a single line and initialed by a Senior Police Officer and in no case any such wrong entry be mutilated or rendered illegal nor should paper be pasted over it.

VI. A District and Sessions Judge of every District may call for and inspect the Station Diaries of Police Stations in his district occasionally to ensure that those are maintained following the law in its letter and spirit. This power under Article 167(2) of the Order should be exercised regularly to keep a check on the proper maintenance of Station Diary.

11. As the arrest of one of the alleged detainees, namely Shahbaz Ali, has been regulated under the relevant law, therefore, learned counsel for the petitioner does not press this petition to his extent and wishes to avail the remedy before the appropriate forum. A report regarding the rest of the alleged detainees namely Asim Shafique and Tahir Imran has been filed by the SHO Police Station Baghbanpura, Lahore, which reflects that neither they are in police custody nor required in any criminal case, therefore, it shall be appropriate to refer the matter to the concerned Superintendent of Police (Operations), who shall do the needful after hearing all the concerned in accordance with the law. With the aforesaid observations, this writ petition stands **disposed of.**

12. Office shall send a copy of this Judgment to the Inspector General of Police, Punjab for onward circulation to all the Police Stations in the province of Punjab for information and strict compliance.

(ALI ZIA BAJWA)
JUDGE

The judgment was pronounced on 11.12.2023 and after completion it was signed on **05.01.2024.**

JUDGE

Approved for Reporting.

JUDGE

Athar*