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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 19th February, 2025

+ **W.P.(CRL) 598/2025 & CRL.M.A.5439/2025**

SATINDER SINGH BHASIN

.....Petitioner

Through: Mr. Vishal Gosain, Mr. Harsh Bora,
Mr. Praney, Mr. Pravir Singh, Ms.
Anushka Baruah, Mr. Nilanjan Dey &
Mr. Ajunee Singh, Advs. (M:
9432280612)

versus

STATE OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Crl.) with Ms. Priyam Aggarwal &
Mr. Abhinav Arya, Advs., with SI
Navneet PS Connaught Place and SI
Rohit PS Rajouri Garden.
Mr Anil Mittal and Mr Shaurya Mittal
Advocates for R-2 to 4 with Mr. Uday
Vir Singh (S.I.) and Mr. Firoz Akhtar
(S.I.) PS Bita 2 Gautam Budh Nagar
UP. (M: 9810064432)
Mr. Gaurav Gupta, Adv. for
Complainant.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE DHARMESH SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

CRL.M.A.5439/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(CRL) 598/2025

3. The present matter has been taken up in the typed supplementary list as



it has been listed upon urgent mentioning.

4. The present petition seeking a writ in the nature of *habeas corpus* has been filed on behalf of the Petitioner. The facts that have transpired as per the petition, are that the Petitioner was first detained on 16th February, 2025, around 05:13 PM by the SHO Beta-II Police Station at Gautam Budh Nagar, (Noida) UP and was released at 9:30 PM on the same day.

5. Again, on 18th February, 2025 *i.e.*, yesterday, he was intercepted near Shivaji Stadium, Connaught Place, New Delhi by U.P. police without any prior information being given to the Delhi Police and has been taken to an unknown location. His whereabouts were thereafter not known. Hence, the present petition, seeking his production.

6. Today, in the morning, when the matter was listed and taken up in the supplementary list, Id. Counsel for the Petitioner submitted that the suspicion is that the UP Police has picked up the Petitioner and have not produced him before any Court. It is further alleged that the Petitioner ought to be traced and produced. Id. Counsel for the Petitioner further submitted that the protocol in cases where inter-state police arrest was made, was also not followed in the present case, in terms of the judgment by Id. Division Bench of this Court in ***Sandeep Kumar v. State (Govt. of NCT of Delhi) and Others, 2019:DHC:6920-DB.***

7. Considering the allegations that were made, Mr. Sanjay Lao, Id. Standing Counsel (Crl.) was requested to seek instructions. Notice was also directed to be issued to the State of U.P, through the Id. Standing Counsel for the State of U.P. in the Supreme Court.

8. Around 4:00 PM, the matter was called again. Mr. Sanjay Lao, Id. Standing Counsel (Crl.) has handed over a status report dated 19th February,



2025, and the same is taken on record. As per the status report, the information which was available with the police station Connaught Place is as under:

“1. That the facts are that on 18/02/2025 at 02:19 PM a PCR Call vide DD No.45A was received at PS Connaught Place, New Delhi that "Shivaji Stadium Connaught Hotel, Satender Singh Bashin ka driver bol rha hun, kuch log mere malik ko gaadi me utha kar le gaye hai, gaadi ka number note nhi kar paaya yaha par CCTV lage hue hai”

2. On receipt of the call, IO reached at the spot and caller was enquired about the incident and he repeated the version of the PCR Call. During enquiry, QST was flashed in all over Delhi, Pieces of broken glass was also found at the place of occurrence i.e. road near Shivaji Stadium, Connaught Place, New Delhi. Place of occurrence was got inspected and photographed by Crime Team and search of the said persons were carried out with the help of CCTV Cameras.

3. Meanwhile a call was received at 7:42 PM on the official mobile Number i.e. 8750870525 of Undersigned (SHO Connaught Place), from the mobile number 9870509554 and caller introduced himself as SI Udhay Singh from PS Beta-II, Gautam Budh Nagar, (Noida) UP and he stated that they have arrested the said person namely Satender Singh Bashin S/o Late Jashwasnt Singh Bashin R/o D-24, Rajouri Garden, New Delhi, Age-52 Years in Case Apradh Sankhya No. 74/2025, U/s 324/329/303/331/331(6)/334/109/305/326/316 (2) BNS, PS Beta-II, Gautam Budh Nagar, UP. It is submitted that no prior intimation regarding the arrest/raid conducted by staff of PS Beta-II, Gautam Budh Nagar was given at the office of PS Connaught Place, New Delhi.



4. *However, undersigned shall abide by any order passed by the Hon'ble court."*

9. Mr. Sanjay Lao, Standing Counsel (Crl.) further submits that, as per the inquiries made and instructions received presently, at the spot where the Petitioner is alleged to have been picked up, there is no CCTV footage available. However, there are certain movements of cars, which have been captured at some locations on CCTV.

10. Mr. Mittal, Id. Counsel entered appearance for the State of U.P. and submitted that he had received the paper book just half an hour ago. He needs time to make submissions. As per instructions received at this stage, it is submitted by Mr. Mittal, Id. Counsel, that an **FIR 0074/2025** dated 18th February, 2025 at PS Beta II, Greater Noida, Gautam Budh Nagar, UP has been registered in view of various allegations raised against the Petitioner by the Co- Promoters 'DS Group' about certain incidents alleged to have occurred at the Grand Venice Mall, Greater Noida, UP. A copy of the FIR has been passed across to the Court. It is submitted by Mr. Mittal that the Petitioner has been produced before ACGM-II, Gautam Budh Nagar, Noida and the arguments on remand have been heard. The Petitioner has also prayed for bail therein. The order is stated to have been reserved.

11. Mr. Gaurav Gupta, Id. Counsel appearing for the Complainant submits that there are serious allegations against the Petitioner and he ought to be given an opportunity to make submissions.

12. After hearing Id. Counsels for the parties, *prima facie*, upon seeing the date and time of the information received as recorded in the FIR, and the status report filed by the Delhi Police, it is clear that the Petitioner was picked up by Noida Police at 14:19 PM, which is prior to the information, which was



received by the PS in Beta-II, Greater Noida, UP. The said FIR records the information received at the police station as 14:43 PM on 18th February, 2025 and GD reference is also numbered entry no. 44 dated 18th February, 2025 at 14:43 PM.

13. Another cause for concern is the fact that the UP Police have entered Delhi and picked up a resident of Delhi without any information being given to the Delhi Police and without following the prescribed protocol. Mr. Mittal submits that the information was given to PS Rajouri Garden but on a pointed query he submits that he is not aware of the time when the information was given. Mr. Lao submits that the Delhi Police was given information late in the evening, about the arrest.

14. This Court in *Sandeep Kumar (supra)* has categorically held that inter-state arrests cannot be effected without following a proper protocol. The relevant portion of the said judgment where the protocol for the inter-state arrest has been highlighted is extracted below:

“15. The Committee has, after examining all of the above material in detail, given detailed suggestions as to the protocol to be followed by the police in the event of inter-state arrest. These read as under:

“1. The Police Officer after assignment of the case to him, must seek prior permission/sanction of the higher/superior officers in writing or on phone (in case of urgency) to go out of State/UT to carry out investigation.

2. In a case when the police officer decides to effect an arrest, he must set out the facts and record reasons in writing disclosing the satisfaction that arrest is necessary for the purpose of investigation. At first instance, he should move the Jurisdictional Magistrate to



seek arrest/search warrants under Section 78 and 79 Cr PC except in emergent cases when the time taken is likely to result in escape of the accused or disappearance of incriminating evidence or the procurement of arrest/search warrant would defeat the purpose. The Police Officer must record reasons as to what were the compelling reasons to visit other State without getting arrest/search warrants.

3. Before proceeding outside the State, the police officer must make a comprehensive departure entry in the Daily Diary of his Police Station. It should contain names of the police officials and private individuals accompanying him; vehicle number; purpose of visit; specific place(s) to be visited; time and date of departure.

4. If the possible arrestee is a female, a lady police officer be made part of the team. The Police Officers should take their identity cards with them. All police officers in the team should be in uniform; bear accurate, visible and clear identification and name tags with their designations.

5. Before visiting the other State, the Police Officer must endeavour to establish contact with the local Police Station in whose jurisdiction he is to conduct the investigation. He must carry with him the translated copies of the Complaint/FIR and other documents in the language of the State which he intends to visit.

6. After reaching the destination, first of all, he should inform the concerned police station of the purpose of his visit to seek assistance and co-operation. The concerned SHO should provide/render all legal assistance to him. Entry to this effect must be made at the said



police station.

7. After reaching the spot of investigation, search, if any should be strictly conducted in compliance of the procedure laid down u/s 100 Cr PC. All endeavour should be made to join independent public witnesses from the neighbourhood. In case of arrest, the police officer must follow the procedure u/s 41A and 41B and Section 50 and 51 Cr PC. The process of arrest carried out by the police must be in compliance with the guidelines given in DK Basu case (Supra) and the provisions of CrPC.

8. The arrested person must be given an opportunity to consult his lawyer before he is taken out of State.

9. While returning, the police officer must visit the local police station and cause an entry made in the Daily Diary specifying the name and address of the person(s) being taken out of the State; articles if any, recovered. The victim's name be also indicated.

10. Endeavor should be made to obtain transit remand after producing the arrestee before the nearest Magistrate unless exigencies of the situation warrant otherwise and the person can be produced before the Magistrate having jurisdiction of the case without infringing the mandate of S. 56 and 57 of Cr.P.C. within 24 hours.

11. The magistrate before whom the arrestee is produced, must apply his mind to the facts of the case and should not grant transit remand mechanically. He must satisfy himself that there exists material in the form of entries in the case diary that justifies the prayer for transit remand. The act of directing remand of an accused is fundamentally a judicial decision. The magistrate does not act in



executive capacity while ordering detention of the accused. He must ensure that requirements of S. 41 (1)(b) are satisfied. The police officer must send the case diary along with the remand report so that the magistrate can appreciate the factual scenario and apply his mind whether there is a warrant for police remand or justification for judicial remand or there is no need for any remand at all. The magistrate should briefly set out reasons for his decision. (Manubhai Ratilal Patel v. State of Gujarat, (2013) 1 SCC 314)

12. Another mandatory procedural requirement for the Magistrate considering a transit remand application is spelt out in Article 22 (1) of Constitution of India. This entitles the person arrested to be informed as soon as may be the grounds of such arrest. The Magistrate has to ensure that the arrested person is not denied the right to consult and to be defended by a legal practitioner of his choice. The Magistrate should ask the person arrested brought before him whether in fact he has been informed of the grounds of arrest and whether he requires to consult and be defended by any legal practitioner of his choice. (DK Basu, Supra) After the pronouncement of this judgment by the Hon'ble Supreme Court, new Sections 41A to 41D have been added to prevent unnecessary arrest and misuse of powers. Denying a person of his liberty is a serious matter.

13. In terms of S. 41C, control rooms be established in every district. Names and addresses of the persons arrested and designation of the Police Officers who made the arrest be displayed. Control Room at State level must collect details of the persons so



arrested.

14. *The police officer must record all the proceedings conducted by him at the spot and prepare an 'arrest memo' indicating time, date of arrest and name of the relation/friend to whom intimation of arrest has been given. It must reveal the reasons for arrest.*

15. *Since the arrestee is to be taken out of his State to a place away where he may not have any acquaintance, he may be permitted to take along with him (if possible), his family member/acquaintance to remain with him till he is produced before the jurisdictional Magistrate. Such family member would be able to arrange legal assistance for him.*

16. *The arrested person must be produced before the jurisdictional Magistrate at the earliest, in any case, not beyond 24 hours from the date of arrest excluding the journey time so that arrest of such person and his detention, if necessary, may be justified by a judicial order. The 24 hours period prescribed u/s 57 Cr PC is the outermost limit beyond which a person cannot be detained in police custody. It does not empower a police officer to keep a person in police station a minute longer than is necessary for the purpose of investigation and it does not give him an absolute right to keep a person till 24 hours.*

17. *On arrival at the police station, the police officer must make an arrival entry in the record and indicate the investigation carried out by him, the person arrested and the articles recovered. He should also inform his senior police officers/SHO concerned about it immediately. The superior Police Officer shall personally supervise such investigation.*

18. *The police officer should effect arrest u/s*



41(l)(b) Cr PC only when he has reasonable suspicion and credible information. He must satisfy himself about the existence of the material to effect arrest. There must be definite facts or averments as distinguished from vague surmises or personal feelings. The materials before him must be sufficient to cause a bona-fide belief. He cannot take shelter under another person's belief or judgment. He must affect arrest at his own risk and responsibility as the effect of illegal arrest could be commission of offence of wrongful confinement punishable u/s 342 IPC. Burden lies on the IO to satisfy the Court about his bona-fide. No arrest can be made because it is lawful for the police officer to do so. Denying a person of his liberty is a serious matter.

19. Medical examination soon after arrest to avoid possibility of physical torture during custody should be conducted.

20. The IO must maintain a complete and comprehensive case diary indicating the investigation carried out by him.

21. The log book of the vehicle used for transportation must be maintained and signed. The IO must indicate whether the vehicle was official or a private one; name of its driver and how and by whom it was arranged. Only official vehicle should be used for transportation to the extent possible.

22. At the time of recovery of the prosecutrix, the police officer, if he is satisfied that she is adult, should ascertain from her at the spot, whether she was present there with her free will. If the victim/prosecutrix is not willing to accompany the police officer or her relatives, the police officer must not exert force on the prosecutrix to take her away against her



wishes. However, if the prosecutrix/victim of her own accord expresses willingness to accompany the police officer/relatives, her consent in writing should be obtained at the spot.

23. In case where the police officer finds the victim/prosecutrix to be a 'minor', soon after recovery, she should be produced before the local Child Welfare Committee for further decision regarding her custody. She must not be made to stay in the Police Station during night hours.

24. Statement of the prosecutrix u/s 164 Cr.P.C. must be recorded at the earliest.

25. MHA/Central Govt/Commissioner of Police must frame suitable guidelines for police officers to render all suitable assistance. The failure to adhere to the rules/guidelines should render the police officer liable for departmental action as well as contempt of the Court.

26. The public prosecutor should provide required assistance to the police officer visiting his State at the time of seeking transit remand.

27. The MHA/State Government should circulate the Rules/Guidelines/Notifications etc from time to time to the Police officers in the State to create awareness. Periodically training should be provided to the Police Officers to sensitize them.

28. Instructions/Guidelines of similar nature should exist in all the States/UTs for speedy, smooth and effective inter-State investigation.

29. The delinquent Police Officer can be directed to pay compensation under the public law and by way of strict liability.”

17. Considering that the Committee comprised of a



former Judge of this Court and a former DGP of the Delhi Police who was a police officer of the Indian Police Service, the Court accepts the above suggestions and directs that they be adopted for implementation by the CP, Delhi as well as the DGP, Uttar Pradesh in their respective jurisdictions. Orders to this effect shall be issued by the DGP, Uttar Pradesh and the CP Delhi within two weeks.”

15. In terms of the above prescribed protocol, no information appears to have been given to the Delhi Police prior to the arrest of the Petitioner, who is a resident of Delhi. The matter requires consideration as none of the other prescribed procedures appears to have been followed. No grounds of arrest also appear to have been communicated at the time of arrest. If the procedures prescribed are not followed, the arrest itself would be contrary to law.

16. Moreover, the dispute between promoters is also presently pending before the NCLT/NCLAT. Certain orders of the Hon’ble Supreme Court, granting bail in favour of the Petitioner, in previous FIRs are also relied upon by the Petitioner.

17. The jurisdiction of this Court in a Habeas Corpus petition is repeatedly reiterated by Courts to the effect that if the grounds of arrest are not communicated or if the arrest is illegal, the petition would be maintainable.

18. Under these circumstances, it is deemed appropriate to direct that if the Petitioner is not released on bail by the concerned Magistrate, the Greater Noida Police, UP shall produce the Petitioner before this Court tomorrow *i.e.*, on 20th February, 2025 at 2:30 PM.

19. The Delhi Police is directed to preserve any CCTV footage that may be



available at various locations which show picking up of the Petitioner or the cars in which the Petitioner was intercepted and taken by the UP Police. The same may be preserved and be produced in a pen-drive tomorrow with the time stamp.

20. List tomorrow *i.e.*, on 20th February, 2025 at 2:30 PM.

21. This order be uploaded *forthwith*.

22. The order be communicated to all the concerned police authorities including the Greater Noida police, UP by the respective counsels as also by the SHO, PS Connaught Place through the office of the Ld. Standing Counsel (Crl.) for necessary information and compliance.

**PRATHIBA M. SINGH
JUDGE**

**DHARMESH SHARMA
JUDGE**

FEBRUARY 19, 2025/dk/ks