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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 20th February, 2025

+ **W.P.(CRL) 598/2025**

SATINDER SINGH BHASINPetitioner

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, Advs. with Mr. Firoz Akhtar,
SS. IPS Bitra 2 Gautam Budh Nagar
UP. For R-2 and 3 (M: 9810064432)
Mr. Vikas Pahwa, Sr. Adv. with Mr.
Nikhil Kohli, Mr. Gaurav Gupta, Mr.
Saket Sikri, Mr. Kushank Garg, Ms.
Sanskriti Shakuntala Gupta, Mr. Ajay
Pal Singh, Advs. for Complainant. (M:
9764775337)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE DHARMESH SHARMA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner seeking a writ in the nature of *habeas corpus*. The facts that have transpired, 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.

3. Again, on 18th February, 2025, he was intercepted near Shivaji Stadium, Connaught Place, New Delhi by the 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 was filed, seeking his production.

4. When the matter was listed and taken up in the supplementary list yesterday i.e. 19th February, 2025, 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. 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*. It is prayed that the Petitioner ought to be traced and produced.

5. Considering the allegations that were made, Mr. Sanjay Lao, Id. Standing Counsel (Crl.) was directed 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.

6. Around 4:00 PM, when the matter was again called yesterday, Mr. Sanjay Lao, Id. Standing Counsel (Crl.) handed over a status report dated 19th February, 2025. As per the status report, the information which was available with the PS 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."

7. Mr. Sanjay Lao, Standing Counsel (Crl.) further submitted that, as per the inquiries made and instructions received, 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.

8. Mr. Mittal, Id. Counsel had entered appearance for the State of U.P. and submitted that as per instructions received, 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 was also handed over to the Court. It is submitted by Mr. Mittal that the Petitioner has been produced before ACJM-II, Gautam Budh Nagar, Noida and the arguments on remand have been heard. The Petitioner has also prayed for bail therein. The order was reserved.

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

10. 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, the Court had observed that the Petitioner was picked up by Noida Police at 14:19 PM, which is prior to the information 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.

11. 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.

12. 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 (l)(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 effect 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.”

13. As can be seen from above, the Court had noted the detailed directions passed by the Coordinate Bench in the case of **Sandeep Kumar (Supra)** wherein the protocol that was to be followed in the Inter-State arrest was prescribed. The final direction in the said judgment was also that the C.P., Delhi and D.G.P., U.P. would file a compliance report after establishing the protocol between themselves.

14. The matter was heard in detail yesterday and the Court had then passed the following directions: -

“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.”

15. The Court had thus directed that the Petitioner, if not released on bail by the Id. Magistrate in Noida, he shall be produced before this Court. Delhi Police was also directed to produce the CCTV footage.

16. Today, Mr. Mittal, Id. Counsel appearing for the UP Police has placed on record the order passed by the concerned CJM yesterday evening i.e., 19th February, 2025 wherein the Court has observed as under:-

“जिससे यह स्पष्ट है कि प्रार्थी / पिटिशनर के सम्बन्ध में माननीय उच्चतम न्यायालय द्वारा मात्र रिट पिटिशन (एस.) 197/2021, सतेन्द्र सिंह भसीन बनाम उत्तर प्रदेश राज्य एवं अन्य से सम्बन्धित प्रकरण में ही नहीं वरन अभियुक्त के विरूद्ध किसी अन्य स्वतंत्र अपराध (any other independent offence,) में कार्यवाही किये जाने के सम्बन्ध में भी माननीय सर्वोच्च न्यायालय की पूर्व अनुमति आवश्यक होने हेतु आदेशित किया गया है। किंतु विवेचक द्वारा माननीय उच्चतम न्यायालय द्वारा पूर्व अनुमति का ऐसा कोई प्रपत्र प्रार्थना-पत्र के साथ प्रस्तुत नहीं किया गया है।



माननीय सर्वोच्च न्यायालय द्वारा रिट पिटिशन (एस.) 197/2021 सतेन्द्र सिंह भसीन बनाम उत्तर प्रदेश राज्य एवं अन्य में पारित आदेश दिनांकित-06.07.2021 को द्रष्टिगत रखते हुए अभियुक्त सतेन्द्र सिंह भसीन उर्फ मोन्टू पुत्र स्व. जसवन्त सिंह भसीन, निवासी-डी-24, राजोरी गार्डन थांना-राजोरी गार्डन, दिल्ली के विरुद्ध मु०अ०सं०-74/2025, अन्तर्गत धारा-303 (2), 331, 334, 316(2), 331(6), 317(2), 109, 305, 326, भारतीय न्याय संहिता थाना-बीटा-2, गौतमबुद्धनगर में प्रस्तुत रिमाण्ड प्रा पत्र निरस्त किये जाने योग्य है, निरस्त किया जाता है।”

TRANSLATION

“It manifests that in regard to the Applicant/Petitioner, the prior permission of the Hon’ble Supreme Court is directed to be taken necessarily not only in this case i.e. Writ Petition (S) (?) No. 197/2021, titled Satendra Singh Bhasin Versus State of Uttar Pradesh and Ors. but also in other independent offences in proceeding against the accused. However, no such document pertaining to the prior permission of the Hon’ble Supreme Court came to be filed along with Application by the Investigation Officer

Therefore, in view of the order dated 06.07.2021 passed by Hon’ble Supreme Court in Writ Petition (S) (?) No. 197/2021, titled Satendra Singh Bhasin Versus State of Uttar Pradesh and Ors., the Remand Application filed in connection with the Case (FIR) No. 74/2025, U/s 303(2), 331, 334, 36(2), 331(6), 317(2), 109, 305, 326 Bhartiya Nyaya Sanhita, PS Beta-2, Gautam Budha Nagar against accused Satendra Singh Bhasin alias Montu S/o Late Jaswant Singh Bhasin R/o



D-24, Rajouri Garden, PS Rajouri Garden, Delhi is liable to be dismissed, hence stands dismissed.”

17. The Court is also informed that in view of the above order, the police remand has not been extended *qua* the Petitioner and he has already been released.

18. 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 a deeper look 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.

19. 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. The *prima facie* view of the Court is that the steps required were not taken and hence the arrest itself is illegal.

20. The Petitioner is present in the Court. One of the allegations of the Petitioner is that he was physically assaulted and manhandled and the MLC has also been conducted on him. Certain videos are also placed before the Court by the Delhi Police, to argue that a private vehicle was used by the UP Police to pick up the Petitioner even though the personnel who took the Petitioner from Delhi to Noida were not in police clothes. He was also examined and the MLC has been prepared. The MLC has been produced in Court which shows that some injury may have been caused, however, the same is not clear until the X-ray reports and expert opinion is sought.

21. Under these circumstances, though the Petitioner is released, there is a



need to ensure that the prescribed protocol for inter-state arrests is followed by the UP Police. The Court would also like to examine the CCTV footage to ascertain the manner in which the police from UP/Noida has picked up the Petitioner, without any information to the Delhi Police and as to why private vehicles were used and the UP Police personnel were not in uniforms. Let a status report be filed by the Commissioner of Police, Greater Noida, UP, after enquiring into the whole matter before this Court including the following aspects:

- i. Who were the police personnel who picked up the Petitioner from Delhi?
 - ii. Which was the vehicle used for the said purpose?
 - iii. What does the Medical report conclude after conducting X-ray as directed in the MLC.
22. In addition, the Commissioner shall also place on record in the status report, as to -
- i. Whether any protocol has been agreed to with the Delhi Police in case of Inter-State arrest as directed in the *Sandeep Kumer(supra)* case?
23. A senior official from the Noida Police shall remain present in Court.
24. List on 5th May, 2025.

PRATHIBA M. SINGH
JUDGE

DHARMESH SHARMA
JUDGE

FEBRUARY 20, 2025/Ch/dj/ks