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

+ **W.P. (CRL) 384/2021**

PAWAN KHATRI

..... Petitioner

Through: Mr. Pankaj Vivek with Mr. Sharad Malhotra, Advocates

versus

STATE OF NCT DELHI

..... Respondent

Through: Mr. Chaitanya Gosain, Advocate for Mr. Rahul Mehra, Standing Counsel (Criminal) alongwith Inspector Vinay Kumar/SHO, P.S.: Narela

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

19.02.2021

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The present matter has been taken-up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

CRL. M.A.2769/2021 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL.) 384/2021

The present *habeas corpus* petition under Article 226 of the Constitution of India has been listed before this court at 04:00 p.m. today, upon urgent mentioning before Hon'ble the Chief Justice and pursuant to directions issued thereupon. By way of the petition, the petitioner prays as follows :

“It is therefore most respectfully prayed that in the interests of justice, this Hon'ble Court may kindly be pleased to issue a writ, order or

direction in the nature of habeas corpus against the respondents thereby directing the respondents to produce the person of Sh. Krishan Kumar Khatri S/o Late Sh. Mam Chand R/O House No. U-91, Vijay Nagar, Narela, Behind Narela Police Station, Delhi, before this Hon'ble Court immediately; and

Any other relief or further order which this Hon'ble Court deems fit and proper may also be passed in favour of the petitioner in the interest of justice.”

The petitioner Mr. Pawan Khatri alleges that his father Mr. Krishan Kumar Khatri was called to PS : Narela by A.S.I. Dilip Kumar on 17.02.2021 and has been detained at that Police Station ever-since, without any formal arrest.

It is further submitted on behalf of the petitioner that his father Mr. Krishan Kumar Khatri, who is aged about 65 years, is a hypertensive heart patient and has been keeping ill-health; and that his condition has deteriorated owing to his illegal detention at the Police Station for the last 02 days.

Mr. Chaitanya Gosain, learned counsel has appeared in the matter on behalf of Mr. Rahul Mehra learned Standing Counsel (Criminal) for the State (NCT of Delhi) on advance notice. Inspector Vinay Kumar, SHO, P.S.: Narela has also subsequently joined the video-conferencing hearing.

On a specific query put to him by the Court, Inspector Vinay Kumar, SHO, P.S.: Narela has stated before this Court that though Mr. Krishan Kumar Khatri was summoned to the Police Station around noon on 17.02.2021 on the basis of a complaint filed on 10.08.2020 by one Smt.

Suman Lata Kapoor, but after questioning the petitioner's father was released the same evening around 09:00 p.m.

On subsequent enquiry by the Court however, Inspector Vinay Kumar, SHO, P.S.: Narela has changed his statement; and he now says that Mr. Krishan Kumar Khatri was summoned to the Police Station again today i.e. 19.02.2021 for questioning and is currently sitting in the Reader's Room at the Police Station. However, he hastens to add that he was making the latter statement on information received from the Police Station, since he was currently at the Singhu Border.

Inspector Vinay Kumar, SHO, P.S.: Narela however confirms that Mr. Krishan Kumar Khatri has not been placed under arrest in any FIR registered in the Police Station nor is he named as a suspect in any criminal investigation or proceeding.

After sometime in the course of the proceedings Inspector Vinay Kumar, SHO, P.S.: Narela has produced Mr. Krishan Kumar Khatri before this Court through video-conferencing and says that he is releasing Mr. Khatri since he is no longer required for any further questioning.

The Court has interacted with Mr. Khatri *via* video-conferencing and on a specific query from the Court, Mr. Khatri says that he was summoned to Police Station Narela at 10:00 a.m. on 17.02.2021 and has been illegally detained at that Police Station ever-since and has not been permitted to return home since then. Mr. Khatri says that he has been called to the Police Station on 4-5 occasions earlier as well.

Mr. Pankaj Vivek and Mr. Sharad Malhotra, learned counsel appearing for the petitioner submit that complaint dated 10.08.2020, allegedly pursuant to which the petitioner has been unlawfully detained by Inspector Vinay Kumar, SHO, P.S.: Narela, is a false complaint that arises

from a purely civil property dispute between Mr. Khatri and one Smt. Suman Lata Kapoor, with whom the petitioner's father is engaged in two civil proceedings bearing case No. CS DJ 338/2020 titled "*Sh. Krishan Kumar Khatri vs. Smt. Suman Lata Kapoor*" and case No. CS DJ 348/2020 titled "*Suman Kapoor vs Krishan Kumar Khartri*", which proceedings are pending before the learned ADJ, Rohini Courts, New Delhi and in which certain interim orders have also been made.

In the circumstances, what is evident is that in the course of the present hearing and before the eyes of this court, Mr. Krishan Kumar Khatri has been found in PS : Narela, contrary to what Inspector Vinay Kumar, SHO, P.S.: Narela stated before this court initially. Inspector Vinay Kumar has also confirmed to this court that no FIR has been registered against Mr. Khatri nor is he required for any investigation. On the other hand Mr. Khatri has unequivocally stated before this court that he has been detained in the Police Station for the last 02 days. This court is also unable to fathom any reason why the petitioner, Mr. Khatri's son, would file a false *habeas corpus* petition if his father was not being so held.

Prima facie, the matter calls for enquiry and investigation, as the apparent detention of Mr. Khatri in the Police Station is axiomatically contrary to all canons of law and in the teeth of not just constitutional provisions, but also in plain violation of the guidelines issued by the Hon'ble Supreme Court in ***D.K. Basu vs. State of West Bengal***, reported as **AIR 1997 SC 610** and this court in numerous decisions.

In the circumstances, issue notice.

Mr. Chaitanya Gosain learned counsel appearing for the State accepts notice and seeks time to file status report. Let status report be filed for the next date, with advance copy to the opposing counsel.

Additionally, the Commissioner of Police, Delhi is directed to conduct an enquiry into the detention of Mr. Krishan Kumar Khatri at PS : Narela, in accordance with law; and to file an action taken report before this court on or before the next date of hearing.

A copy of this order be provided to learned counsel appearing on behalf of the parties electronically; and a copy be also marked personally to the attention of the Commissioner of Police, Delhi for information and compliance.

For the record, Mr. Krishan Kumar Khatri has been released by Inspector Vinay Kumar, SHO, P.S.: Narela from the Police Station during the course of today's proceedings.

List for further proceedings on 24.02.2021.

SIDDHARTH MRIDUL, J

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 19, 2021/dn

[Click here to check corrigendum, if any](#)