

Court No. - 16

Case :- HABEAS CORPUS WRIT PETITION No. - 179 of 2024

Petitioner :- Fiza Khatoon (Minor) Thru. Her Mother Gudiya

Respondent :- State Of U.P. Thru. Addl.Chief Secy. Home And 2 Others

Counsel for Petitioner :- Sumit Kumar

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed,J.

Learned A.G.A. has filed counter-affidavit today, which is taken on record.

Sri Vinod Kumar Shahi, learned Addl. Advocate General, alongwith Dr. V.K. Singh, learned Government Advocate, assisted by Sri Ashok Kumar Singh, learned A.G.A.-I for the State/opp. parties and Sri Sumit Kumar, learned counsel for the petitioner, are present.

This court on 5th of July, 2024 had passed the following order:

"Heard Sri Sumit Kumar, learned counsel for the petitioner as well as the learned A.G.A. Sri Bhaskar Mall, appearing for the State.

This writ petition has been filed with the following prayer:

".... Issue a writ, order or direction in the nature of Habeas Corpus directing opposite parties to produce the detenue petitioner before this Hon'ble Court and set her at liberty at an earliest, in the interest of justice."

Learned counsel for the petitioner submits that regarding kidnapping/missing of a 16 year's old girl from 23.05.2024, namely Fiza Khatoon, an F.I.R. dated 27.05.2024 was lodged at P.S. Jarwal Road, District Bahraich, under Sections 363 and 368, I.P.C. against five persons, but due to casual and lethargic attitude of the Police concerned missing girl could not be recovered as yet.

When the matter was first time argued before this court on 28.06.2024, this court had directed the learned A.G.A. to seek instructions in the matter.

Today, the learned A.G.A. has produced the instructions given by the Sub Inspector Sri Raghvendra Pratap Singh, P.S. Jarwal Road, District Bahraich. In the instructions given, only it has been stated that they are searching the corpus/missing girl.

This court is not satisfied with the progress of investigation in a sensitive matter of alleged kidnapping/missing of a minor girl of 16 years and the instructions submitted by the Sub Inspector of Police Sri Raghvendra Pratap Singh, P.S. Jarwal Road, Bahraich, which is nothing, but simply an eye-wash. The work of Police is to serve the common people and to

expedite the investigation in whatsoever manner, but a very casual approach has been adopted in the present case, wherein the F.I.R. regarding kidnapping/missing of a minor girl of 16 years was lodged on 27.05.2024 and even after passing of more than one-and-a-half month's the Police is not able to recover the missing girl and one-and-a-half page instruction has been submitted before this court only with the contention that search is going on. It is a very casual approach on the part of the Police Authorities of District Bahraich, thus, this court directs the Superintendent of Police, Bahraich as well as the Investigating Officer of this case to appear before this court in person on the next date fixed and submit their detailed investigation report and produce the corpus/missing girl before this court, otherwise this court will take strict action against the concerned Police Officer.

List this case on 30.07.2024 before this court for further orders.

Let a copy of this order be given to Sri Vinod Kumar Shahi, Addl. Advocate General, as well as Sri Ashok Kumar Singh, learned A.G.A.-I, for its necessary compliance and for intimation to the Superintendent of Police, Bahraich, as well as the Commissioner of Police concerned and the Director General of Police, Uttar Pradesh. The Senior Registrar of this Court is also directed to serve the copy of this order to Superintendent of Police, Bahraich, for its necessary compliance."

In compliance of the order dated 5th of July, 2024, the Superintendent of Police, District Bahraich, Ms.Vrinda Shukla, is present in person before this court, alongwith the Sub Inspector Sri Rana Raj Singh, of P.S. Jarwal Road, Bahraich, who is a newly appointed investing officer in this case.

Learned Addl. Advocate General Sri V.K. Shahi has produced a copy of the Division Bench order dated 09.07.2024 passed in Criminal Misc. Writ Petition No. 4792 of 2024, Smt. Fiza Khatoon & anr. v. State of U.P. & ors., which was filed by the alleged detainee of the instant petition, namely, Smt. Fiza Khatoon, and one of the accused in the F.I.R. dated 27.05.2024 [Annexure-2 (hereinafter referred to as 'F.I.R.)], namely, Murshid, for quashing of the F.I.R., and the Division Bench of this court granted them interim protection.

Sri Sumit Kumar, learned counsel for the petitioner, submits that the concerned Police, mainly the investigating officer, is hand-in-gloves with the accused at the F.I.R. dated 27.05.2024 and on their advice, the said writ petition has been filed only to frustrate the F.I.R. The Police was very well aware about the whereabouts of the minor detainee, but they did nothing on the F.I.R., He further submits that as the protection has been granted to the accused in the said writ petition, he will contest the case before the Division Bench for dismissal of the writ petition, bringing the correct facts, by filing the detailed counter affidavit in that court.

The Superintendent of Police Ms.Vrinda Shukla fairly admits that there is a laxity and casual approach adopted by the investigating officer, who was conducting investigation in the first information report which was lodged on 27.05.2024. She further submits that the concerned investigating officer has been suspended because of adopting such casual approach in this case and not recovering the missing girl, in spite of the named F.I.R. She also submits that she has appointed a new investigating officer in this case and in future she will also inform all the Police Stations coming under her jurisdiction to be very active and in prompt functioning. She also assured this court that in future such type of laxity and casual approach shall not be adopted in any case in the District. She also submits that as the District Bahraich is very sensitive, being adjacent to Nepal, so in future she will adopt a very vigilant view and monitor the entire Police jurisdiction coming under her supervision.

Sri Vinod Kumar Shahi admits this fact that after the order dated 05.07.2024 passed by this court in the instant case, it appears that some loopholes have been adopted by the Police and the victim as well as the next friend have approached this court and obtained the order dated 09.07.2024. He also submits that it is not in dispute that the girl was minor as per her High School certificate, when the F.I.R. was lodged, and the Police failed to recover the minor girl in spite of the first information report dated 27.05.2024, which was lodged one-and-a-half month's prior to the interim protection granted by Division Bench of this Court. He also submits that on his part prompt action was taken and all authorities were informed regarding the order passed by the court on 05.07.2024 as well as the order 28.06.2024 passed by this court in the present *habeas corpus* writ petition.

He further submits that as the Superintendent of Police has assured this court that in future she will be very cautious that such type of approach, which has been adopted by the earlier investigating officer in the present case, will not be adopted again by any police officer, and as the Superintendent of Police is a very active officer, with a high reputation, thus, in future she will take care and monitor personally the entire Police Stations coming under her jurisdiction. He also submits that as now the matter is subjudice before a Division Bench of this court, the petitioner may conduct the case before the Division Bench.

Sri Sumit Kumar, learned counsel for the petitioner, who argued the case very well, has no objection to the proposal given by the learned Addl. Advocate General Sri Vinod Kumar Shahi and he

submits that he will contest the case before the Division Bench for dismissal of the writ petition, bringing the correct facts before the court, by filing the detailed counter affidavit in this case.

After considering the arguments, as advanced by the learned counsel for the parties and after perusal of the record, this court is of the view that now nothing remains to be decided in the instant habeas corpus writ petition, as the Division Bench has already granted interim protection to the alleged detainee as well as the accused of the F.I.R. dated 27.05.2024, and notices have already issued inviting counter-affidavit by opp. party No. 4 in the writ petition, thus, the petitioner in the present case may contest the case (Criminal Misc. Writ Petition No. 4792 of 2024) pending before the Division Bench by filing the detailed counter affidavit.

With the above observations, this writ petition is finally **disposed of.**

(Shamim Ahmed, J.)

Order Date :- 30.7.2024

A.Nigam