

\$~19.

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

+ W.P.(CRL) 453/2016

URVINDER SINGH

..... Petitioner

Through: Mr. Y.D. Nagar, Advocate

versus

GOVT OF NCT OF DELHI & ORS

..... Respondent

Through: Ms. Kamna Vohra, ASC with SI P.K.
Jha

Ms. Shubhada Phaltankar, Adv for R-
4&5

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

%

23.08.2016

The petitioner has preferred the present petition primarily to seek a direction to respondent nos.2 to 5 to investigate the matter properly and provide the particulars of the whereabouts and produce the vehicle of the petitioner being canter registration No.DL1M 5057.

Respondent nos.2 and 3 are the SHO, PS Okhla Phase-I and the Commissioner of Police, New Delhi. Respondent nos.4 and 5 are the PSI-SP Banjari, Crime Branch, Kohlapur, Pune, Maharashtra and the SHO, Shahpuri Post, Kohlapur, Pune, Maharashtra.

The case of the petitioner is that the petitioner had carried goods in the said vehicle to Pune, Maharashtra. The said vehicle returned back to Delhi on 10.07.2015. On 24.08.2015, the crime branch team from Kohlapur, Maharashtra under the supervision of SI-SP Banjari/ respondent no.4 directed the hirer of the tempo, i.e. Neeraj Kumar Gautam to appear at the police post Okhla Phase III and asked him to join the investigation. Thereafter, Neeraj and his father went to police post Okhla Phase III and joined the investigation – where he was served a notice under Section 160/175 Cr PC so as to join the investigation in CR No.250/2015 registered at Thana Shahpuri, Post Kohlapur, Maharashtra. Once again on 25.08.2015, Neeraj Kuamr Gautam, the owner of M/s Upadhaya Transport Services, Okhla Phase III along with the petitioner and some other people went to police post Okhla Phase III and met respondent no.4. Respondent no.4 asked the petitioner and Neeraj Kumar Gautam whether the said vehicle had been send to Pune by them, to which the petitioner replied in the affirmative. The petitioner claims that respondent no.4 without disclosing any details of the matter, threatened them with dire consequences and with imprisonment and to take back the tempo to Kohlapur, Maharashtra in case the petitioner and Neeraj Kumar Gautam did not pay up Rs.2 lacs. The petitioner claims that when they tried to enquire about the matter, respondent no.4 threatened to shoot them.

The petitioner states that the petitioner parked the vehicle at police post Okhla Phase III on 26.08.2015. The petitioner also applied for anticipatory bail on 26.08.2015 in the court of District & Sessions Judge, Saket, New Delhi. In those proceedings, the status report was filed by the I.O. Balbir Singh from PS Okhla Phase I stating that on 26.08.2015 police

officials from the PS Shahpurim Kohlapuri, Maharashtra had come to police post Okhla Phase III in search of the tempo in question and its driver and owner. They found the tempo in question which they had taken into possession and gone back. It is in these circumstances that the petitioner has preferred the present writ petition.

The status report has been filed by the SHO, PS Okhla Industrial Area, wherein it is stated that on 24.08.2015, a team of Maharashtra police led by SI Crime Branch, Kohlapur arrived at police post Okhla Phase III for investigation of Crime No.250/2015 under Section 379/34 IPC, PS Shahpuri, Maharashtra. During investigation of the case, it was found that the tempo in question had been used for commission of the said offence which was seized by them from Okhla Industrial Area Phase III. The status report states that apparently Neeraj Kumar Gautam was given notice under Section 160 Cr PC by Maharashtra police to join the investigation at police post Okhla Phase III, but he did not join the investigation. Thereafter, the Maharashtra police team seized the tempo and took the same along with them.

The submission of learned counsel for the petitioner is that the tempo in question had been parked at police post Okhla Phase III on the instructions of the police officials of police post Okhla Phase III. It is they who handed over the vehicle to respondent nos.3 and 4, and respondent nos.3 and 4 have illegally taken away the vehicle.

On the other hand, the submission of the State is that the Delhi police had no reason to seize the vehicle of the petitioner and the same has not been seized by them. It is the Maharashtra police which is investigating the aforesaid crime case had come looking for the said vehicle and upon finding

the vehicle, they had taken the same away and only as a measure of recording that they had taken the vehicle in relation to a crime under investigation by them, they had made a recording at the police post Okhla Phase III. Learned counsel has also shown to the court the communication/ acknowledgment given by the Maharashtra police team dated 26.08.2015 while taking away the vehicle. Learned counsel submits that in case the petitioner seeks release of the tempo on superdari, it is for the petitioner to approach the concerned court at Kohlapur, Maharashtra under Section 451 Cr PC.

In the aforesaid circumstances, since the whereabouts of the petitioner's vehicle have been located and the involvement of Delhi police in the seizure and delivery of the vehicle to the Maharashtra police personnel is not borne out from the record, no further directions are called for. The Delhi police shall, however, provide an authenticated copy of the communication dated 26.08.2015 to the petitioner, so that the petitioner may be able to take appropriate steps under Section 451 Cr PC before the appropriate court.

Petition stands disposed of with the aforesaid directions.

VIPIN SANGHI, J

AUGUST 23, 2016

sr