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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.4249 OF 2014

Mrs. Qamar Nasreen Abdul Karim

.... Petitioner.

V/s.

Dum Dum Central Correctional Home and
ors

.... Respondents

Mr.Chetan Mali, for the Petitioner.

Mr. I. J. Nankani a/w Deepa Shetty i/by M/s
Nankani and Associates, for Respondent Nos 1 to
3.

Mr. H. S. Venegaonkar, for S.I.T.

Ms. S.D. Shinde, APP for Respondent State.

Ms. R. M. Gadhvi, APP for respondent Nos 2 and
4 State of Chhatisgarh, State of West Bengal.

**CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 25th JANUARY, 2017.

P.C. :

1. Heard Mr. Chetan Mali, learned counsel for the petitioner,
Mr. H.S. Venegaonkar, Special Public Prosecutor for CBI, Mrs. S.D.
Shinde, APP for the State of Maharashtra and Ms. R.M. Gadhvi, APP for
State of Chhatisgarh and State of West Bengal - respondent Nos 2 to 4.

2. This petition is filed seeking writ of habeas corpus directing
respondents to produce Shaikh Abdul Naeem Abdul Karim, son of the

petitioner before this Court. The directions are also sought against respondent No.2 to file report of whereabouts of the petitioner's son. In the alternative petitioner has also sought direction against respondent No.6 to investigate the complaint of the petitioner concerning disappearance of Naeem.

3. The petition is filed in the year 2014. The petitioner's son is wanted accused in Criminal Cases in the State of Chhatisgarh, State of Maharashtra, State of Andhra Pradesh and State of West Bengal. He is also accused in Crime No.8 of 2014 for offence punishable under Section 224 of the Indian Penal Code registered with Raigarh Government Railway Police Station, Chhatisgarh, as well as in MCOCA Case No.16 of 2016 at Mumbai.

4. He was in custody of West Bengal police and the Escorting Party. While taking him to Maharashtra by Howrah Mumbai train via Nagpur in connection with aforesaid MCOCA Case No.16 of 2016, he escaped by jumping from moving train in between Raigarh Railway Station, Chhatisgarh and accordingly at the instance of West Bengal Police C.R. No.8 of 2014 for offence punishable under Section 224 of the Indian Penal Code was registered at Raigarh Railway Police Station, in Chhatisgarh State. Since then the petitioner's son is absconding.

5. The petitioner, despite the fact that her son escaped from the

police custody of West Bengal, filed present petition for the reliefs claimed herein above.

6. During the pendency of this petition, various orders are passed directing respondents to make efforts to trace out the petitioner's son. The reports are also filed from time to time showing efforts made in tracing out the petitioner's son. On 19th September, 2016, this Court had appointed Special Investigation Team to investigate into the issue of absconding of petitioner's son. The S.I.T. was consisting of of Additional Director General of Police, Maharashtra, Director General of Police, Chhatisgarh and Director General of Police, West Bengal. This Court also directed that this three members team shall function under the chairmanship of Joint Director, CBI, Chhatisgarh. This Court, directed investigating agencies of Maharashtra, Chhatisgarh and West Bengal to co-operate with the S.I.T. The Chairman of the S.I.T. Joint Director of CBI, Chhatisgarh, was directed to submit status report on the next date of hearing.

7. In pursuant to above order, Chairman of S.I.T. has filed report dated 13.01.2017. The report disclosed that the police personnel of escort team, consisting of Shri.Ranjan Kumar Panda- Sub Inspector, Shri. Tapas Das, ASI, Shri. Nitish Mondal, Constable, Shri.Jagdish Mondal, Constable and Shri.Shankar Sapoi, Constable were involved in the

escape of of petitioner's son from judicial custody whom they were escorting and bringing to Mumbai by train to produce him before the MCOC Court at Mumbai. Accordingly, Superintendent of Police, Government Railway Police, Raipur vide his letter dated 19.12.2016, has requested the Commissioner of Police, Barrackpore, Kolkata to grant sanction to prosecute the said six police personnel for the offences punishable under Sections 221, 222, 223 and 34 of the Indian Penal Code .

8. So far petitioner's son who is alleged to have escaped is concerned, Crime No.8 of 2014, is registered under Section 224 of the Indian Penal Code at Government Railway Police Station, Raipur. The sanction to prosecute the above police personnel is awaited. The apprehension on the part of the S.I.T. is that the petitioner's son has crossed the border and at present he is in Bengal. The S.I.T. has also directed the Chhatisgarh Police to prepare a detailed Dossier of accused Shaikh Abdul Naeem on the basis of the inputs received from West Bengal Police, ATS Maharashtra and Hyderabad Police and to forward it to DG BSF through the Home Department of Chhatisgarh State, to the Home Ministry of the Central Government, so that the competent authority of BSF may take up the matter regarding whereabouts of accused Shaikh Naeem with the competent authority of Bangladesh Rifles

during their next Flag Meeting.

9. The discussion made hereinabove would thus show that the petitioner's son was accused in serious offences and while escorting him in order to produce him before MCOC Court at Mumbai, he escaped and has crossed the border.

10. In the circumstances, nothing survives for consideration in this petition and the same is disposed of accordingly.

[DR. SHALINI PHANSALKAR JOSHI, J.]

[RANJIT MORE,J.]