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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(CRL) 1214/2017, CrI. M.A. 6828-6829/2017**

DEVESH SINGH CHAUHAN

..... Petitioner

Through: Mr. Nitin Jain, Advocate.

Versus

STATE & ORS

..... Respondents

Through: Mr. Rahul Mehtra, Standing Counsel
(Criminal) Govt of NCT of Delhi
along with Mr. Tushar Sannu,
Advocate.
Inspector Rajender Singh, P.S.
Rajender Nagar.
Mr. Subhash Kumar, Advocate for
R-2

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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26.04.2017

Respondent No. 2/Sir Ganga Ram Hospital has been served and put in appearance through counsel.

We have heard Mr. Nitin Jain, learned counsel for the petitioner, Mr. Rahul Mehra, Standing Counsel for the State and Mr. Subhash Kumar, learned counsel on behalf of respondent no. 2/Sir Ganga Ram Hospital.

The status report has been tendered in the Court and is taken on record.

The petitioner has preferred this writ petition to seek a writ of Habeas Corpus for release of his father namely Sh. Onkar Singh Chauhan, alleging that respondent no. 2/Sir Ganga Ram Hospital is illegally detaining him. The case of the petitioner is that his father who is Constable serving in the State of Madhya Pradesh was admitted to Sir Ganga Ram Hospital/respondent no. 2 on 28.02.2017. He received treatment in the said hospital between 28.02.2017 and 19.04.2017. The petitioner states that from time to time he has made payment to the respondent no. 2 amounting to about Rs. 3.30 lacs to meet the treatment expenses and other professional expenses in relation to the treatment of his father. He further states that he has spent about Rs. 2 lacs on purchase of the medicines. According to respondent no. 2/Hospital, the total expenditure incurred on the treatment of petitioner's father as on 01.04.2017 is Rs. 13,37,952/- out of which the amount of Rs. 3,30,000/- has been paid. The respondent no. 2/ Hospital has sent a communication to the Chief Minister of Madhya Pradesh requesting for release of the amount of Rs. 10 lacs from Chief Minister's Discretionary Fund to pay hospital bills.

The grievance of the petitioner is that on account of the petitioner disputing the claims of respondent no. 2, they have stopped giving proper treatment to his father and are also holding his father hostage to extract money from him which he is disputing and also not in a position to pay. Learned counsel for the petitioner further submits that this modus operandi has been adopted earlier also by respondent no. 2/Hospital in respect of other patients.

Learned counsel for the respondent no. 2/Hospital disputes the

allegations made by the petitioner. He states that the father of the petitioner has been receiving treatment and, even on 21.04.2017, a surgery was performed on the petitioner's father while he was in general ward. Learned counsel for the respondent No.2 states that since the charges for the hospital were not paid, the petitioner's father was shifted from the private ward to general ward and his grievance is with regard to the said shifting of the patient. He further submits that the father of the petitioner cannot be released except on medical advice. He further submits that in case the petitioner wishes to remove his father from the hospital, he may do so at his own peril.

Learned counsel for the petitioner, on instructions, states that the petitioner shall remove his father from the said hospital at his own risk and responsibility and take him for his treatment elsewhere.

Merely because the dues of the hospital treating the patient are outstanding, that certainly cannot be a reason to withhold the release of the patient, particularly when the next of kin of the patient is desirous of removing the patient at their own responsibility. As early as on 20.04.2017, the petitioner recorded his grievance with the SHO, PS Rajinder Nagar that his father is being illegally detained by respondent No.2 only for the purposes of extracting the amount claimed by the hospital towards treatment of the patient. We deprecate this practice.

Respondent no. 2/Hospital is directed to prepare the discharge summary in respect of the petitioner's father forthwith, and the petitioner is free to remove his father from respondent no. 2/Hospital at his own responsibility. He shall issue necessary undertaking to this effect to the hospital. The SHO PS Rajender Nagar is directed to

ensure compliance of this order.

The petition stands disposed of.

Copy of the order be given *dasti* under the signatures of the Court Master.

VIPIN SANGHI, J

DEEPA SHARMA, J

APRIL 26, 2017/ss