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

+ W.P.(CRL) 242/2018

LALIT KUMAR DESHWAL

..... Petitioner

Through: Dr. Vijendra Mahndiyam with Pallavi
Awasthi and Mr. S.K. Gill

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Chaitanya Gosain for Mr. Rahul
Mehra, Standing counsel for State
with Inspector Y.K. Bhatia.
Mr. Deepak Pandey for Mr. Saurabh
Kansal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

08.10.2018

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The petitioner has preferred the present writ petition to seek a writ of habeas corpus for production of his brother– Atul Kumar. The case of the petitioner is that his brother Atul Kumar is a disabled person. He was living in Delhi since 2013 and earning his livelihood by following the profession of architecture. He was residing on rent at ground floor B-573, Sector-1, Avintika, Rohini, Sector-01, New Delhi-85. The petitioner is the elder brother of Atul Kumar. He states that he frequently used to come to Delhi and visit his brother. On 24.07.2017, the petitioner claims that he had a telephonic conversation with Atul Kumar when the petitioner's brother

informed him that on 25.07.2017 he would be going to his village in District Meerut. The petitioner and his father kept waiting for Atul Kumar but he did not turn up. The two mobile phone numbers of Atul Kumar were then called but they were both switched off. After waiting for four days, since there was no trace, the residence of Atul Kumar was visited on 29.07.2017. On reaching his home, the petitioner found that the room of his brother was locked. The petitioner made enquiries from the landlady and the neighbours. He was handed over the keys of the accommodation of Atul Kumar by his landlady– Smt. Shakuntala. She had the keys of the room of Atul Kumar but she and her family members were not aware of his whereabouts. The petitioner claims that upon opening the room of Atul Kumar, he found his laptop in working condition and the television was also working. The other belongings like shoes and clothes were also in the room. There was some material belonging to the landlady, was also lying in the room. Consequently, the petitioner approached the police on 04.08.2017 and General Diary Entry No. 026A was made on 05.08.2017 at PS Vijay Vihar, Rohini, New Delhi. Consequently FIR No. 56/2018, under Section 365IPC, at PS Vijay Vihar was registered.

The petitioner states that since the police did not take action, he has preferred this writ petition. He suspects the involvement of respondent No.2 and 3 in the disappearance of his brother. He claims that they had obtained a loan of Rs. 3,50,000/- from Atul Kumar and that may be the reason for his disappearance.

This court has repeatedly called status reports which have been filed on record. The landlady of Atul Kumar has been interrogated, at length, in the presence of the petitioner. However, no definite clue has been obtained.

The polygraph test of Vishal– the son of the deceased landlady has also been got conducted on 17.07.2018 at CFSL, CBI, New Delhi. As per the report dated 17.07.2018, he has been found to be truthful in respect of the following questions put to him.

<i>“</i>	<i>Issues</i>	<i>Answers</i>
(i)	<i>Whether he knows the present whereabouts of Atul Kumar?</i>	<i>No</i>
(ii)	<i>Whether he borrowed Rs.3 lakhs from Atul Kumar?</i>	<i>No</i>
(iii)	<i>Whether he is hiding any information about Atul Kumar’s missing?</i>	<i>No</i>
(iv)	<i>Whether he is involved anyway in the missing of Atul Kumar?</i>	<i>No</i>
(v)	<i>Whether he returned all money to Atul Kumar?</i>	<i>Yes”</i>

In these circumstances, without expressing any view on the involvement, if any, of one of the other persons in the disappearance of Atul Kumar and without giving a clean chit to any person, we dispose of this petition with the direction to the police to continue with their endeavour to locate Atul Kumar, the missing brother of the petitioner and file further status report before the concerned Magistrate dealing with the FIR in question.

The petition stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

I.S.MEHTA, J

OCTOBER 08, 2018
N.Khanna