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

+ W.P.(CRL) 2612/2018

VISHAL SINGH

..... Petitioner

Through Mr. Jayant Bhatt, Mr. Angaj Gautam
and Ms. Prachi Aggarwal, Advocates.

versus

STATE (THE NCT OF DELHI) & ORS.

..... Respondents

Through Mr. Rahul Mehra, Standing Counsel
(Crl.) with Mr. Chaitanya Gosain,
Advocate.
Insp. B.S. Gulia and SI Yadram
Yadav, PS-Moti Nagar.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE I.S.MEHTA

ORDER

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04.09.2018

CRL.M.A. 31253/2018

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(CRL) 2612/2018 & CRL.M.A. 31252/2018

The petitioner has preferred the present writ petition primarily to seek a writ of habeas corpus for a direction to respondent nos. 1 to 4 to produce him and release him on bail. He also seeks other reliefs- a writ of mandamus for procuring documents containing the details of case diary and mode of arrest of the petitioner; a writ of certiorari, quashing the order of remand passed by the learned MM against the petitioner and his consequent

incarceration in Tihar Jail; a writ of certiorari to quash the order dated 24.08.2018 passed by the learned MM whereby his bail application has been rejected and; an order for grant of compensation against the respondents for his allegedly unconstitutional and illegal detention to which he has been subjected.

The petition is premised on the averment that the FIR bearing no. 305/2018 dated 08.08.2018 registered at P.S. Moti Nagar, West District, Delhi was only in respect of bailable offence, namely, Sections 341/427/34 IPC. The petitioner states that he was arrested in the wee hours of 10.08.2018 from his residence without providing any information about the details of his arrest. The petitioner moved a bail application before the learned MM, inter alia, contending that he was entitled to bail as a matter of right under Section 436 Cr.P.C. However, that application has been rejected by the learned MM vide order dated 24.08.2018. Thus, the petitioner contends that his detention was illegal to begin with, and it has been continued by the learned MM by passing an order without application of mind.

On advance notice, Mr. Mehra, learned standing counsel appearing on behalf of GNCTD has tendered in Court a status report which is taken on record. Mr. Mehra points out that Section 353 IPC was added on the very same day as the registration of the FIR, in view of the statement of Inspector B.S. Gulia. This aspect has been withheld by the petitioner from being disclosed in the petition. The state also disputes the petitioners claim that he was arrested on 10.08.2018. Mr. Mehra states that apart from the petitioner, there are seven other persons who are in judicial custody. There are three juveniles as well involved in the offence.

Considering the fact that the petitioner is in judicial custody in respect of a non bailable offence, in our view the writ of habeas corpus is not maintainable and the petitioner has the right to seek bail by approaching either the Sessions Court or even the High Court.

The other reliefs taken note of hereinabove can be appropriately dealt with by the concerned Court dealing with the FIR, case.

In these circumstances, we find no merit in this petition. Accordingly, we dismiss the same.

We may clarify that we have not examined the case on its merits and the above shall not affect the case of either party.

VIPIN SANGHI, J

I.S.MEHTA, J

SEPTEMBER 04, 2018

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