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

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Date of decision: November 21, 2023

+ W.P.(CRL) 427/2023

BHAWANIDIN

..... Petitioner

Through: Mr. Karan Aggarwal, Mr. Jitender
and Mr. Ankit, Advocates along with
petitioner in-person.

versus

STATE AND ORS

..... Respondents

Through: Mr. Sanjay Lao, SC (Crl.) with Ms.
Priyam Agarwal, Adv. alongwith
Inspector Shrichand and SI Deepak
P.S. Timarpur.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE SHALINDER KAUR

JUDGMENT (oral)

1. The present writ petition under Article 226 of the Constitution of India, 1973 has been filed seeking the following prayer:-

“(a). issue writ order or direction in the nature of Habeas Corpus directing the respondents to produce the son of the petitioner namely Ajay.”

2. A status report dated 21.11.2023 has been handed over in Court today, same is taken on record. It is submitted in the status report that a missing report regarding Ajay s/o Dalua R/o H. No. 112, J-15, Old Chandrawal Civil Lines aged 26 years was lodged at PS Timarpur vide DD No. 57A dated 24.12.2022 by the petitioner Bhawanidin. It was stated by the complainant



that on 21.12.2022 at around 05.00-05.30 AM, his son Ajay alongwith his maternal uncle namely Dinesh S/o Heera Lal R/o UN 31/30, Old Chandrawal, Civil Lines, Delhi aged 28 years went to the Metro Rail construction site under Wazirabad flyover for committing theft. The said missing report was assigned to ASI Anirudh for further necessary action.

3. It is further submitted that during the course of inquiry, the EO/ASI Anirudh examined the eye witness Dinesh S/o Heera Lal R/o UN 31/30, Old Chandrawal, Civil Lines, Delhi and recorded his statement. He stated in his statement that on 21.12.2022 at around 05.00-05.30 AM, he alongwith Ajay went to Metro Rail construction site under Wazirabad flyover to steal iron rods from there. He further stated that the security guards available there spotted them and on seeing them, they ran away. He added that he along with Ajay ran away towards Nehru Vihar drain and both of them lowered down in the drain in order to hide inside. There, Dinesh turned left but Ajay could not maintain his balance and fell in the drain waters and was not seen thereafter. He further stated that Ajay was under the influence of intoxication and fell in the drain. He stated further that he did not disclose this fact to the parents of Ajay due to fear. Dinesh was examined several times in this regard and every time he stated the same facts.

4. It is further stated that the missing information was shared with all related agencies. W/T message was flashed to all DCSP in Delhi and all SSSP in India to trace the missing person. The missing information was uploaded on ZIPNET as well as NCRB, SCRB and CBI were informed to find any clue. Hue & Cry notice was also published and given a wide publicity to trace the missing person Ajay. It was published in newspapers and request was also sent to Door Darshan to show it in its regular missing



persons program. The scene of occurrence was also checked from CCTV coverage and it was found that no CCTV coverage was available there in the area.

5. It is also stated that as the water level is very deep in the drain, divers were deployed at Nehru Vihar drain from the probable point of missing upto the influence of drain in Yamuna River. Extensive search was made in the presence of senior officers in the related waters with the help of boats several times but the missing person Ajay could not be traced. The petitioner was also present with the police team during the search operation. Search was made in the Yamuna river upto ITO and further, but no clue could be gathered. The other police stations having jurisdictions of Yamuna river waters in the flowing direction towards southern side were also contacted in this regard but no information regarding the missing person has been received. The hospitals and mortuaries in the area have also been searched but no clue has been received of missing person Ajay. The guards on duty, namely Ankit Kumar and Dharmendra Kumar Prajapati on the said night have already been interrogated several times and their statements were recorded. It has been stated by both of them that many thieves attempt to steal iron from the site during the night time. Also, on that fateful day, two persons attempted to commit theft there early in the morning but due to their alertness the alleged theft was averted and thieves ran away from there. They stated that they do not know anyone such, as no one could be caught on that fateful night.

6. Further a reward of Cash 20000/RB has been declared for public cooperation in the case of missing person Ajay by order number 4657/SO DCP North Dtd 02/06/23.



7. It is further submitted that the missing person Ajay was involved in various cases of theft, snatching an arms act, he has been declared BC (Bad Character) of the area vide order N 6895/SO/DCP/North dated 14.06.2021.
8. All the necessary steps have been taken to trace the missing person Ajay but could not succeed till date. Nearby Police station Kotwali, Kashmiri Gate, Civil Lines, IP Estate and Sun Light Colony having jurisdiction in River Yamuna water have been contacted time and again but no clue could be received. The ZIPNET is being monitored time to time for any clue regarding missing person Ajay.
9. In view of the above, since various steps have been taken by the State to trace out the missing person Ajay, we hereby dispose of the present writ petition while directing the State to lodge an FIR as per law in the present matter and thereafter concerned police officials are directed to file quarterly status report before the concerned Metropolitan Magistrate and if any clue is found about the missing person, the same shall be transmitted to the petitioner.
10. In view of the above, the petition is disposed of.

SURESH KUMAR KAIT, J.

SHALINDER KAUR, J.

NOVEMBER 21, 2023 / SU