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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 22.09.2023

W.P.(CRL) 2666/2023

DEEPAK KUMAR

..... Petitioner

Versus

THE STATE (GOVT. OF NCT OF DELHI) AND ORS

.... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Chandan Kumar Mandal, Advocate.

For the Respondents : Mr. Sanjay Lao, Standing Counsel (Criminal) for the State with Ms. Priyam Agarwal, Mr. Abhinav Kumar Arya & Mr. Shivesh Kaushik Advocates with ASI Mukesh Kumar, P.S.: Subzi Mandi.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANISH DAYAL

J U D G M E N T

SIDDHARTH MRIDUL, J. (OPEN COURT)

1. The present writ petition under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973, has



been instituted on behalf of the petitioner, praying as follows:

'In view of the forgoing, it is therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:-

(i) issue the Writ of Habeas Corpus against the respondents and direct the respondent No.1, 2, 8 and 9 to produce Smt. Mansi Tyagi and Sh. Sandeep Kumar from the unlawful and illegal custody/ captivity of the respondents No.3 to 7;

(ii) Issue any other order(s) or direction(s) or Writ(s) for the sake of protection of Smt. Mansi Tyagi and Sh. Sandeep Kumar;

(iii) Issue direction to the respondent No.3 to 7 for not to interfere in the peaceful marriage life of Smt. Mansi Tyagi and Sh. Sandeep Kumar prescribed under the law of land, in the interest of justice.'

2. Deepak Kumar, the petitioner *herein*, is the brother of Sandeep Kumar, whose production along with Ms. Mansi Tyagi is prayed for, by way of the present *habeas corpus* petition, and is stated to have married Ms. Mansi Tyagi (**Date of Birth: 25.12.1998**, as recorded in the Matriculation Certificate), on **13.09.2023**, at the **Arya Samaj Mandir, Gokhle Market, Tis Hazari Courts, Delhi.**

3. It is the petitioner's case, that subsequent upon the purported marriage, Sandeep Kumar informed the members of the respective



families, about the factum of the said marriage.

4. Our attention is invited to **Annexure P-9 (Page no. 36 of the writ petition paper-book)**, which is a letter dated 13.09.2023, whereby Ms. Mansi Tyagi is stated to have informed the SHO, P.S.: Narsena, District Bulandshahr, Uttar Pradesh, about the performance of her marriage to Sandeep Kumar, of her own free will and volition; and further requesting the latter, not to proceed with any complaint that may have been filed, on behalf of her family, against Sandeep Kumar. Ms. Mansi Tyagi is also stated to have asked the concerned SHO, for protection.

5. It is then alleged, that although the couple sought refuge at the **Police Post, Tis Hazari Courts, Delhi**, and beseeched the Police to keep the couple safe, from Ms. Mansi Tyagi's family; the latter were handed-over to the Police Team, P.S.: Narsena, District Bulandshahr, Uttar Pradesh, on the intervening night of 13.09.2023 and 14.09.2023.

6. It is in these circumstances, that the petitioner was constrained to institute the present *habeas corpus* writ petition. Pursuant to notice issued by this Court, *vide* order dated **18.09.2023**, in the present *habeas corpus*, a status report dated **21.09.2023**, authored by SHO, P.S.: Subzi Mandi, has been filed on behalf of the Delhi Police. A perusal of the said status report



reflects, that on the fateful night, S.I. Gajraj Singh along with Woman Constable Nidhi Chauhan, P.S.: Narsena, District Bulandshahr, Uttar Pradesh, came to the Tis Hazari Police Post, and informed the Delhi Police that a case being **FIR No. 251/2023**, dated **13.09.2023**, under Section 366 of the Indian Penal Code, 1860, had been registered against Sanju *alias* Sandeep Kumar at **P.S.: Narsena, District Bulandshahr, Uttar Pradesh** as well as against the petitioner and three other unknown persons, on the basis of a complaint made by Mr. Anuj Kumar, who happens to be the father of Ms. Mansi Tyagi. At that juncture, the Delhi Police is stated to have handed-over the custody of the couple, to the Police Team, P.S.: Narsena, District Bulandshahr, Uttar Pradesh, as aforementioned.

7. The Delhi Police goes on to state, that upon enquiry, it has been verified that, on **14.09.2023**, the statement of Ms. Mansi Tyagi, under Section 164 of the Code of Criminal Procedure, 1973, was recorded before the learned Magistrate of District Bulandshahr, Uttar Pradesh. It is simultaneously stated that Sandeep Kumar was arrested in the said FIR (**FIR No. 251/2023, dated 13.09.2023**), on **16.09.2023**, and was remanded to judicial custody in District Jail, Bulandshahr, Uttar Pradesh,



by the competent Magistrate, till **29.09.2023**.

8. In the forenoon session, Ms. Mansi Tyagi had appeared through *video-conferencing*, and was requested to appear before this Court, in-person, in the post-lunch session.

9. Pursuant *thereto*, Ms. Mansi Tyagi has appeared before this Court in-person, and we have had occasion to interact with her at length, in Chambers.

10. Ms. Mansi Tyagi has clearly and unequivocally stated that she is desirous of continuing to live with her parents at her parental home, situated at **Barhana, Bulandshahr, Uttar Pradesh**.

11. In view of the foregoing facts and circumstances, antecedent and attendant, the relief of *habeas corpus*, insofar as it relates to Ms. Mansi Tyagi, stands satisfied.

12. Insofar as Sandeep Kumar is concerned, he has been remanded to judicial custody till **29.09.2023**, by the Court of competent Magistrate, in District Bulandshahr, Uttar Pradesh, in relation to **FIR No. 251/2023**, dated 13.09.2023, under Section 366 of the Indian Penal Code, 1860, at **P.S.: Narsena, District Bulandshahr, Uttar Pradesh**.

13. Consequently, the relief of *habeas corpus*, in our considered view,



is not available to Sandeep Kumar.

14. Liberty is, therefore, afforded to Deepak Kumar/ the petitioner *herein* and to Sandeep Kumar, to approach the competent Court, seeking appropriate relief, including but not limited to an application for release/enlargement on regular bail, in accordance with law.

15. No further relief is prayed for.

16. With the above liberty, the writ petition is disposed of accordingly.

17. However, we hasten to add that we have expressed no opinion on the merits of the statements, or contentions urged on behalf of the parties, except insofar as they relate to the relief of *habeas corpus*.

18. Copy of the judgment be uploaded on the website of this Court.

**SIDDHARTH MRIDUL
(JUDGE)**

**ANISH DAYAL
(JUDGE)**

SEPTEMBER 22, 2023/Aanchal

[Click here to check corrigendum, if any](#)