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

% ***Date of decision: 24th January, 2024***

+ **W.P.(CRL) 2748/2023**

MUKESH

..... Petitioner

Through: Mrs. Rajdipa Bihura, Mr. Kani, Mr. Ashray Behura, Ms. Neha Dobriyal, Ms. Simrat Kaur Sareen, Ms. Aishwarya Gupta and Ms. Nandini Sharma, Advocates.

versus

STATE & ORS

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel(Crl.) with Ms. Priyam Aggarwal and Mr. Abhinav Arya, Advcoates with SI Koyal, PS, Ranhola and SI Pravesh, PS Nihal Vihar.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Learned APP for the State has produced the status report. The same is taken on record.
2. Present petition has been filed as Habeas Corpus under Article 226 of the Constitution of India seeking directions to the respondent to produce missing wife of the petitioner.



3. The petitioner is aggrieved by the fact that on 05.06.2015, his wife left her parental home and has not come back so far.
4. We may also note that petitioner is a rape convict who has been guilty for committing rape of his own daughter. As per status report dated 22.11.2023, which is on record, on 05.03.2016, vide DD No. 47B, information was received at PS Nihal Vihar from SGM Hospital, Mangolpuri, Delhi regarding rape of a minor girl by her father (petitioner herein).
5. On such complaint, a case was registered U/s 376/506 IPC and Section 6 POCSO Act vide FIR No. 206/16 PS Nihal Vihar. It is not in dispute that petitioner has been convicted for 20 years regarding rape of his minor daughter and he is in Jail.
6. Pursuant to order dated 03.01.2024, the statement of the petitioner has been recorded in the Jail whereby he has informed that for the last 08 years, he was in ward No. 08 of Jail No. 09. His wife went to school in June, 2015 thereafter, she never returned. To said effect, he has already lodged missing complaint before PS, Mangol Puri on 07.06.2015 vide DD No. 46B and that he tried to trace her but could not find her.
7. Thereafter, since 2016, he is in Jail for the aforesaid case.
8. The wife of petitioner is missing since June, 2015 and her daughter, prosecutrix in the aforesaid rape case, is staying with her maternal grandparents. She is present in Court states that for the last 08 years, her mother is missing and they tried their level best, but she is still untraceable.



9. In view of the above, we hereby, dispose of the present petition by directing the respondent/State, to continue to make efforts to find out missing wife of the petitioner and if any clue is found, the same shall be immediately communicated to the petitioner, his children and his in-laws. Let quarterly report about the steps taken be also filed before concerned Magisterial Court.

10. The petition is disposed of accordingly.

(SURESH KUMAR KAIT)
JUDGE

(MANOJ JAIN)
JUDGE

JANUARY 24, 2024/sw