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

*Date of decision:-7<sup>th</sup> August, 2024.*

+ **W.P.(CRL) 2203/2024**

**BALAJI SAI RAM SABINKAR**

.....Petitioner

Through: Mr. Vishal Dabas, Mr. Hemant Chauhan, Mr. Aishwarya Sharma, Advs.along with Petitioner in person.

versus

**STATE NCT OF DELHI AND ORS.**

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel.  
SI Abhishek, PS Hari Nagar.  
Mr Hemant Kumar, Adv. for R-2 (M-9999266658) with R-2 present in person.  
Mr. Sabinkar Dilip, in person.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE AMIT SHARMA**

**Prathiba M. Singh, J. (ORAL)**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed on behalf of the Petitioner-Balaji Sai Ram Sabinkar under Article 226 of the Constitution of India read with Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking issuance of a writ of *habeas corpus* for production of his brother, Mr. Sabinkar Dilip, who according to him, has gone missing.
3. The background of this case as stated in the petition is that in April,



2023 the Petitioner's brother came in contact with Respondent No. 2 and they started talking to each other on a regular basis. However, on 11th February, 2024 the Respondent No. 2 registered an FIR bearing No. 193/2024 under Sections 376/506 IPC against Mr. Sabinkar Dilip. Consequently, on 28th February, 2024 the concerned police officials arrested Mr. Sabinkar Dilip, who was thereafter granted bail on 16th April, 2024. On receiving bail, Mr. Sabinkar Dilip was released from Tihar Jail on 18th April, 2024. However, on 3rd May, 2024 a call by Mr. Sabinkar Dilip was received by his family, who were then informed by Mr. Dilip that he is with Respondent No. 2 who has taken him somewhere. The family was unaware of the whereabouts of Mr. Sabinkar Dilip. Hence, this petition.

4. On 25th July, 2024, a status report dated 25th July, 2024 signed by SI-Mukesh Yadav, PS Hari Nagar, New Delhi, was handed over to the Court. The said report stated that enquiries have been made while trying to trace the Petitioner's brother through mobile numbers, which he had used to make telephone calls. One of those numbers belonged to an inmate, who was in the Judicial Custody with the brother of the Petitioner. Enquiries were also made from the Respondent No.2, who in turn had stated that she is living alone.

5. On the last date of hearing i.e., 25<sup>th</sup> July, 2024, further investigation and inquiry was directed for tracing the brother of the Petitioner and filing of an updated Status Report.

6. The Status Report dated 7th August, 2024 authored by SHO PS Hari Nagar has today been handed over by Mr. Lao, Standing Counsel (Criminal) in Court and the same is taken on record. The said report is extracted below:



*“In continuation of previous status report, it is submitted that further enquiry into this matter has been conducted. During the course of enquiry, a notice for appear before the Hon'ble court has been sent to the respondent no. 02 at her available address (E-338, Jahangirpuri, Delhi). The notice received back with the remarks that she is not residing at given address.*

*During further course of enquiry, e-mail was sent to Google for obtaining the details of available e-mail ID (dilipsabinkar@gmail.com) of the brother of petitioner. A request letter for CDR data of the available contact numbers of respondent No. 02 and the brother of petitioner were sent.*

*During the further course of enquiry, Mr. Amit has been contacted on his mobile number and he informed that his wife (Respondent No 2) is residing with the brother of petitioner in Rohini. He is not aware about the address of the brother of petitioner. During the further course of enquiry, location of mobile number provided by Mr. Amit (Husband of the Respondent No. 02) has been obtained. As per the location the respondent no. 02 is residing at Sector-25, Rohini. After that search has been made and the brother of petitioner and the respondent were found living at Pandit Niwas, C-43, Sector 25, Rohini. Notice to appear in person before this Hon'ble Court on 07-08-2024 were served upon the Respondent No. 2 and the brother of petitioner.”*

7. A perusal of the above would show that one Mr. Amit who is stated to be the husband of Respondent No. 2 was contacted. Mr. Amit informed the police that the Respondent No. 2 is residing with the brother of the Petitioner in Rohini. Mr. Amit further provided a phone number, as per which, the location of Respondent No. 2 was obtained. On searching the said premises, it was found that Mr. Dilip and Respondent no.2, were living



together at Pandit Niwas, C-43, Sector 25. This was found to be in complete contrast and contradiction to what Respondent No.2 had revealed to the Police earlier, as captured in the Status Report dated 25<sup>th</sup> July, 2024. The relevant paragraph of the earlier status report dated 25<sup>th</sup> July, 2024 is extracted below:

“xxx xxxxxx  
During the further course of enquiry, the IO contacted on mobile number 8756755175 and found that the number is switched off. **The respondent no. 02 (Victim in case FIR No. 193/2024, PS Narela) has also been contacted and she informed that she met with accused in Jail during custody but as on date she is living alone.** She does not have any information about the Mr. Sabinkar Dilip. Further enquiry on the complaint of Mr. Balji Sai Ram Sabinkar is going on. However, the undersigned is ready and willing to abide by any direction passes by the Hon'ble Court”.

8. The brother of the Petitioner and the Respondent No. 2 have been produced before this Court today. The entire family of Mr. Dilip including his mother, wife, his brother and other relatives are present in the Court.

9. The facts which have emerged show an unfortunate situation where the process of criminal law appears to have been put in motion by the Respondent No.2. The Respondent No.2 has filed a complaint under Section 376 IPC making various allegations against the Petitioner's brother. However, subsequently the Respondent No. 2 was found to be visiting him in jail and upon his release, living with him after he was released on bail vide a detailed order of the Ld. Sessions Judge, North District, Rohini Courts. Vide the said order dated 16th April, 2024, regular bail was granted subject to the following conditions:



*“Since, the accused is in judicial custody for a considerable period and the investigation qua the accused has already been completed. The charge-sheet has also been filed. No purpose would be served to keep the accused in Judicial custody and it will take a long time to conclude the trial.*

*Therefore, keeping in view all the facts, and circumstances, the applicant/accused is admitted on regular bail on furnishing personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one surety of the like amount to the satisfaction of Ld. MM/Link, MM/Duty MM/ACMM/CMM subject to following terms and conditions.*

**1. That during the period of bail, the accused shall not try to contact directly or indirectly or through any of the electronic mode to the complainant and his family members or any public witness.**

*2. That during the pendency of the trial of this case FIR. the accused shall not get himself involved in the similar nature of offence.*

*3. The accused shall not leave the country without prior permission of the court.*

*4. That during the period of bail, the accused shall furnish his mobile number to the concerned IO/SHO and shall keep his mobile phone on for 24 X 7 and will respond as and when called by the concerned IO/SHO.*

*The bail application stands disposed off accordingly. However, it is pertinent to mention that nothing expressed herein shall tantamount to be an expression on the merits of this case.*

*Copy of order be provided to the parties and also be sent to Jail Authorities.”*

10. The Court has interacted with Dilip, his wife and mother as also Respondent no.2. The facts that have emerged shows that Mr. Dilip is a Civil Engineer by qualification. He was married in 2022. His wife is also present in Court. Respondent No.2 is also married and has two children. The



Respondent No.2 and Mr. Dilip appear to have met on some online platform and the allegations in the criminal complaint filed by the Respondent No.2 appear to be completely incorrect as the relationship between Dilip was clearly consensual. The fact that after Dilip was granted bail, he was living with Respondent no.2, gives a clear impression that the complaint was either a collusive one or he was under some sort of pressure from Respondent no.2. The complaint may have also been filed by Respondent No.2 to somehow ensure that Mr. Dilip comes to Delhi. The Status Report has revealed that the first condition itself has been violated by Mr. Dilip as both of them were together when the Police authorities found them living together in Rohini. The criminal process set in motion for personal gains or for their own personal interest without keeping in mind the burden that has been put on the Police authorities as also on the Court, is a cause for concern in this case.

11. From the sequence of events that have transpired, the entire episode seems to be pre-planned and staged to hoodwink not only the Police authorities but also their respective families.

12. Be that as it may, at this stage, Mr. Dilip submits that he wishes to go back to his family. There are various allegations of threats having been levelled by the family members as also the Respondent No.2 against each other. One of the relatives of Dilip has submitted in Court that Respondent no.2 makes incessant whatsapp calls and levels threats. Respondent no.2 also alleges that Dilip's family has levelled threats against her.

13. It is accordingly directed that Respondent No.2 shall not contact any family members of the Petitioner or Mr. Dilip in any manner. The family members of the Petitioner and Mr. Dilip shall also not contact Respondent No.2. The IO shall escort Respondent No.2 to her residence.



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14. The petition is accordingly disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**AMIT SHARMA**  
**JUDGE**

**AUGUST 07, 2024**  
*Rahul/rks*