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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 2841/2024

ARUN BACKLIWAL

.....Petitioner

Through: Ms. Mrinal Kanwar, Adv.
(M:9654045061)

versus

STATE OF NCT OF DELHI AND ORS.

.....Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Criminal) with Ms. Priyam Agarwal
& Mr. Abinav Kumar Arya, Advs.
SI Kuldeep Yadav, PS Barakhama
Road.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

ORDER

% **04.10.2024**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner - Mr. Arun Backliwal under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarika Suraksha Sanhita, 2023, seeking a writ in the nature of *habeas corpus* for production of his son Mr. V, who is stated to be 40 years old.
3. It is the case of the Petitioner that the missing son- Mr. 'V' has been diagnosed with certain mental conditions, which require medical attention. The apprehension expressed by the Petitioner was that Mr. 'V' went missing on 2nd July, 2024, and thereafter, has not returned home. It is stated that on 30th August, 2024, the Petitioner/father had approached PS Barakhamba



Road in respect of his missing son- Mr. 'V' and requested the police to take action as per Section 100 of the Mental Healthcare Act, 2017.

4. On 12th September, 2024 the Court was apprised that certain complaints were filed by Mr. 'V' at PS Barakhamba Road alleging physical assault and ill-treatment by his elder brother-Mr. Gaurav Backliwal. However, on the said date, Mr. 'V' left the police station before the Petitioner and other family members reached the concerned police station. Considering the aforesaid, the Court had issued notice to Mr. 'V' for physical appearance with his Counsel. The relevant portion of the said order is reproduced below:

“5. As per the status report dated 12th September, 2024, which has been handed over in Court, certain complaints were filed by the son of the Petitioner-Mr. Vaibhav Backliwal at PS Barakhamba Road regarding the physical assault and ill treatment meted out by his elder brother-Mr. Gaurav Backliwal. However, on the said date, he left the police station before the Petitioner and other family members would have reached there. Thereafter, on 30th August, 2024, the Petitioner/father lodged a complaint at PS Barakhamba Road and requested the police to take action as per Section 100 of the Mental Health Act, 2017. The said status report has been taken on record.

6. During the course of proceedings, the IO has connected telephonically to Mr. Vaibhav. When an attempt was made to connect him to have a conversation with the Court, he requested that notice be issued to him so that he can engage a lawyer.



7. In view thereof, let notice be issued to Mr. Vaibhav for physical appearance on the next date of hearing along with his Counsel, if so advised. Mr. Vaibhav be served through the SHO concerned. The said notice may be served on his mobile phone through WhatsApp or through any other electronic mode, if available.”

5. Thereafter, on 18th September, 2024 the Court was informed by the ld. Standing Counsel for the State that Mr. ‘V’ had been duly served with the Court notice, however, he had still refused to appear before the Court and participate in present proceedings.

6. Considering the fact that Mr. ‘V’ is suffering from mental health issues, as per the medical documents placed on record, the Court had passed the following directions:

“5. Let the location of Mr. Vaibhav be traced, and considering the mental health issues the police authorities shall treat Mr. Vaibhav in a sensitive manner.

6. If Mr. Vaibhav is traced, the police authorities may contact the Institute of Human Behaviour and Allied Sciences ('IHBAS') for deputing a team of medical professionals who may accompany the IO, and thereafter, let Mr. Vaibhav be produced before a team of doctors in IHBAS for examination.

7. Further, if Mr. Vaibhav is traced before the next date of hearing, the State may mention the matter and produce Mr. Vaibhav before the Court along with the report of his examination by the team of doctors from IHBAS.”



7. Further to the previous order, the police authorities were able to trace Mr. 'V' and he has been placed under the safe care of Institute of Human Behaviour and Allied Sciences ('IHBAS'). A report has been received from IHBAS dated 1st October, 2024, as per which Mr. 'V' was registered at IHBAS on 25th September, 2024 and he was admitted on 26th September, 2024 under Section 102 of the Mental Healthcare Act, 2017.
8. It is further stated that the assessment of Mr. 'V' is underway and the Standing Medical Board is planning to examine him on 9th October, 2024 at 2:00 p.m.
9. The prayer in the present writ petition was for directing the police to trace the Petitioner's missing son - Mr. 'V', and ensure proper medical care for him. With the admission of Mr. 'V' at IHBAS, the said prayer stands satisfied.
10. After the Medical Board at IHBAS has reviewed and assessed Mr. 'V', proper treatment in terms of the Mental Healthcare Act, 2017 shall continue at IHBAS.
11. Let a copy of the report of medical examination of Mr. 'V' by the Medical Board of IHBAS be provided to the Petitioner.
12. If the family of Mr. 'V' wishes to shift him to any private healthcare centre, he may be moved to a private healthcare centre with the approval of the treating doctor(s) at IHBAS. The concerned police authorities shall be informed of the same in advance.
13. If the patient-Mr. 'V' does not cooperate in the aforesaid, then the family is free to approach the concerned police authorities who shall discharge their functions in accordance with the Mental Healthcare Act, 2017.



14. Copy of the order be communicated to the Secretary, IHBAS, for necessary information and compliance.

15. The present writ petition is disposed of in these terms. All pending application(s), if any, also stand disposed of.

PRATHIBA M. SINGH, J

AMIT SHARMA, J

OCTOBER 04, 2024

dj/ms/Pc