



\$~13

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

+ **W.P.(CRL) 789/2025**

RAMAKANT SHANKARMAL PILANI

.....Petitioner

Through: Mr. Madhav Khurana Senior Advocate with Mr. Tushar Gupta, Mr Sumit Kr Mishra and Ms. Sanjivani P., Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Sanjay Lao, Standing Counsel (Crl.) with Ms. Priyam Agarwal and Mr. Abhinav Kr. Arya, Advocates for State alongwith ACP Virender K. and Insp. Shikhar Chaudhary, PS-EOW. Mr. Hirein Sharma and Mr. Akkash Bhadana, Advocates for Complainant (Lok Sewak Leasing & Investment Pvt. Ltd.).

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **11.03.2025**

1. This hearing has been done through hybrid mode.
2. This is a petition filed under Article 226 of the Constitution of India read with Section 528 of BNSS seeking issuance of a writ in the nature of *habeas corpus* to release the Petitioner from illegal custody. The prayers sought in the petition are as under:

It is therefore respectfully prayed that the Hon'ble Court be pleased to:

- A. *Issue a Writ of habeas corpus directing the Respondent to release the Petitioner from illegal custody immediately, and*



B. Pass such orders and directions as this Hon'ble Court may deem fit in the interest of justice.

3. It is the case of the Petitioner that his custody is illegal as there was no remand order passed on 4th march 2025 by the concerned Magistrate despite specific orders for him to be produced before the said Court. Thus, his detention from 4th March onwards is unlawful and he is entitled to be released.

4. The brief background of the case is that an FIR being FIR No. 86/2024 dated 10th July, 2024 was registered under Sections 420/407/467/468/471/120B IPC at PS – Economic Offences Wing ('EOW') New Delhi. The Petitioner, being one of the accused persons in the said FIR was arrested on 29th January, 2025. He was produced before the Magistrate on the next date and was remanded to police custody for five days. Thereafter, the Petitioner was produced before the Magistrate on 4th February, 2025 and was remanded to judicial custody till 18th February, 2025. The said order dated 4th February, 2025 reads as under :-

“IO has moved an application for obtaining specimen signatures and running handwriting of accused Ramakant Shankarmal Pilani.

It is submitted by the accused that he has no objection if his specimen signatures and running handwriting are taken. Statement of the accused recorded separately to this effect.

Heard. Specimen handwriting/signatures of accused Ramakant Shankarmal Pilani are taken on 12 sheets marked as S-1 to S-12. Same are countersigned by the undersigned. Original sheets are handed over to the IO in the Court itself.

Application stands disposed off accordingly.

Copy of this order be given dasti to all concerned.

IO moved an application for 14 days JC.

Accused is remanded to JC till 18.02.2025.”



5. On 18th February, 2025, the Petitioner was produced before the Magistrate and was again remanded to judicial custody for fourteen days with a direction to be produced on 04th March, 2025. The said order reads as under :-

“IO moved an application for 14 days JC.

Heard. Record perused.

Considering the overall facts and circumstances of the case and since reason for remand and found sufficient, accused Ramakant Shankarmal Pilani is remanded to 14 days JC and be produced before the Court/ Ld. Duty JMFC on 04.03.2025.

Application for grant of JC remand is accordingly disposed off.

Copy of order be given dasti to the IO.”

6. The present writ petition in the nature of *habeas corpus* has been filed stating that the Petitioner was not produced before the Magistrate on 4th March, 2025. Hence, Petitioner’s continued detention is illegal and he is entitled to be released.

7. The present petition was filed on 05th March, 2025 and was listed before the Coordinate Bench of this Court on 06th March, 2025. On the said date, the following order was passed :-

“W.P.(Crl.) 789/2025

3. Issue notice.

4. Notice is accepted by Ms. Priyam Aggarwal, the learned counsel on behalf of the respondent. She prays for time to seek instructions from the concerned Jail Superintendent.



5. Let a report be also called from the Jail Superintendent, Tihar Jail, informing of the reasons for the non-production of the petitioner in relation to FIR No. 86/2024, Police Station EOW before the learned Magistrate on 04.03.2025.

6. The learned counsel for the petitioner submits that as the respondent is seeking time, the production of the petitioner pursuant to the Order dated 04.03.2025 passed by the learned Magistrate should not be considered to have made the present petition infructuous. This issue shall also be determined on the next date.

7. List before the Roster Bench on 11th March, 2025.”

8. As can be seen from the above order, a report was called for by the Magistrate from the concerned Jail Superintendent, (Central Jail-04) Tihar as to the reasons for non-production of the Petitioner before the concerned Magistrate on 4th March, 2025.

9. Today, the Id. Standing Counsel for the State has appeared and submits that the concerned Investigating Officer (“IO”) had moved an application before the Magistrate dated 4th March, 2025 seeking fourteen days judicial custody remand for all three accused in the FIR No. 86/2024, including the Petitioner. However, when the IO had visited Tihar Jail, he was informed that the Petitioner was not available in the Jail and hence, the name of the Petitioner was struck out from the said application. On the very same date, being 4th March, 2025, the Superintendent (Central Jail-04) Tihar, New Delhi had sent a communication to the concerned Magistrate stating that the Petitioner herein could not be produced before the Court on 04th March, 2025 since he was admitted in GB Pant Hospital for treatment since 01st March,



2025. The copy of the said letter as well as the copy of the application moved by the IO have been placed before the Court. Let the same be taken on record.

10. Simultaneously, the IO moved another application seeking issuance of production warrants. In the said application, the IO stated as under :-

“On 29.01.2025, the accused Ramakant Shankarmal Pilani was arrested and (05) days police custody remand of accused Ramakant Shankarmal Pilani was granted by Hon’ble Court for judicial remand, however, he was not produced from Tihar Jail.

In view of above submissions, it is therefore requested that kindly issue production warrant of accused Ramakant Shankarmal Pilani for extension of his judicial custody remand.

Submitted Please.”

11. Under such circumstances, the Magistrate on 04th March, 2025 directed as under :-

“Heard. Record perused.

It is submitted by the IO that accused Ramakant Shakarmal Pilani is not produced from Tihar Jail, Delhi.

Considering the overall facts and circumstances of the case and reasons stated in the application, issue production warrants of accused Ramakant Shakarmal Pilani for 07.03.2025.

Application is accordingly disposed off.

Copy of the order be given dasti to IO for compliance.”

12. Pursuant to the above stated order, the matter was then taken up on 07th March, 2025. On the said date, the Petitioner was produced from judicial custody and was remanded to eleven days of further judicial custody till 18th March, 2025. The said order reads as under :-



“Heard.

Considering the overall facts and circumstances of the case and since reason for remand are found sufficient, accused Ramakant Shakarmal Pilani is remanded to 11 days JC and be produced before the Court/Ld. Duty JMFC on 18.03.2025.

Medical status report of accused be called from Jail superintendent concerned on the NDOH.

Application for grant of JC remand is accordingly disposed off.

Copy of the order be sent to the Jail Superintendent Concerned.

Copy of order be given dasti to IO.”

13. It is submitted by Mr. Madhav Khurana, Id. Senior Counsel for Petitioner that for the period between 04th March, 2025 to 07th March, 2025, when there was no order of remand, the Petitioner’s detention was illegal and hence, he is entitled to be released from custody. In support of his submissions, he relies upon the following two decisions :-

- i. ***Raj Narayan v. Superintendent, Central Jail, New Delhi***
1970 (2) SCC 750;
- ii. ***Ram Narayan Singh v. State of Delhi, (1953) 1 SCC 389***

14. Mr. Khurana, Id. Senior Counsel further submits that it was incumbent upon the concerned IO to seek remand even in the absence of the Petitioner and that the order ought to have been passed by the Court.

15. Heard. In the opinion of this Court, the facts in the present case are completely distinguishable from the aforementioned judgments being relied upon by the Petitioner. The concerned IO in the present case had clearly moved an application seeking judicial custody for fourteen days on 04th



March, 2025 itself. The information relating to the Petitioner's admission in the Hospital was not available with the IO at that stage. Hence, it was not disclosed in the said application. The concerned Superintendent (Central Jail-04) had informed the Magistrate on 04th March, 2025 itself that the Petitioner is admitted in GB Pant Hospital due to some medical reasons and thus, he was not produced before the Magistrate on the said date. However, the Petitioner was duly produced from judicial custody before the concerned Magistrate on 07th March, 2025.

16. Thus, there was no complete disclosure of facts and there was no attempt on part of the Authorities to keep the Petitioner in custody in an unlawful manner. It is clear that the order dated 07th March, 2025 was made in the presence of the Petitioner and was not a mechanical order of remand passed without having heard the accused. Hence, the same is in fact in line with the principles laid down in ***Raj Narayan v. Superintendent, Central Jail, New Delhi (Supra)***. The relevant paragraph is set out below:

“38. It stands to reason that an order of remand will have to be passed in the presence of the accused. Otherwise the position will be that a Magistrate or Court will be passing orders of remand mechanically without having heard the accused for a considerably long time. If the accused is before the Magistrate when a remand order is being passed, he can make representations that no remand order should be passed and also oppose any move for a further remand. For instance, he may rely upon the inordinate delay that is being caused by the prosecution in the matter and he can attempt to satisfy the Court that no further remand should be allowed. Again it may be that an accused, on a former occasion may have declined to execute a bond for getting himself released; but on a later occasion when a further remand is being considered, the accused may have reconsidered the position and may be



willing to execute bond, in which case a remand order will be totally unnecessary. The fact that the person concerned does not desire to be released on bail or that he can make written representations to the magistrate, beside the point. For instance, in cases where a person is sought to be proceeded against under Chapter VIII of the Criminal Procedure Code, it would be open to him to represent that circumstances have materially changed and a further remand has become unnecessary. Such an opportunity to make a representation is denied to a person concerned by his not being produced before the magistrate. As the magistrate has to apply his judicial mind, he himself can take note of all relevant circumstances when the person detained is produced before him and decide whether a further remand is necessary. All these opportunities will be denied to an accused person if he is not produced before the magistrate or the Court when orders of remand are being passed.

Considering the above legal position i.e. that the accused could not be produced on 4th March, 2025 due to his hospitalisation, it cannot be held that the detention is illegal.

17. Under these circumstances, it cannot be said that there was any lapse on behalf of the concerned IO or by the Police Authorities. No orders for release can thus be passed.

18. The present petition is dismissed and no orders are called for. The Petitioner is however, free to seek his remedies, including bail in accordance with law.

19. Pending application(s), if any, also stands disposed of.

PRATHIBA M. SINGH, J

RAJNEESH KUMAR GUPTA, J

MARCH 11, 2025/nd/ss