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

Date of decision: 30th September 2021

+ **W.P. (CRL.) 974/2020**

SANJAY SINGH Petitioner

Through: Ms. Alpana Pandey, Advocate.

versus

THE STATE (GOVT. OF NCT) OF DELHI & ANR

..... Respondents

Through: Mr. Sanjay Lao, Standing Counsel
(Criminal) for the State. Mr. Kanwal
Jeet Arora, Member Secretary,
DSLISA along with Mr. S. K. Sethi
and Ms. Dolly Sharma Advocates.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition, as originally filed, the petitioner had made the following prayers:

“a.) Allow the present petition in favour of the petitioner and issue the writ in the nature of Habeas Corpus against the Respondents to release the Petitioner who is illegally detained by the Respondent no.2,

b.) Grant the reasonable compensation to the petitioner for his illegal detention, and

c.) Pass any other order/orders as this Hon'ble Court may kindly be deemed fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. The principal grievance raised by the petitioner by way of the present writ petition was that despite having been admitted to bail *vidé* order dated 18.05.2020 made by the learned Metropolitan Magistrate, Dwarka Courts, New Delhi the petitioner had not been released from Tihar jail. It was the petitioner's contention that in compliance with the aforementioned bail order, the petitioner had submitted requisite bail bonds on 15.06.2020 and yet he was not released from prison.
3. When the matter came-up for hearing for the first time on 26.06.2020, learned Standing Counsel (Criminal) appearing for the Government of NCT of Delhi, representing the prison authorities, informed the court that the petitioner had been released from jail the previous night *i.e.*, on 25.06.2020. In spite thereof however, in subsequent proceedings, upon an issue being raised on behalf of the petitioner as to the delay in releasing the petitioner from prison, certain explanations were offered; and, viewing the laxity and negligence on the part of the prison authorities, this court recorded its displeasure and issued certain directions to ensure due sensitisation of prison officials about the rights of the prisoners, *inter-alia* mandating that prisoners must be released expeditiously once granted bail or other relief by courts.
4. Lastly, *vidé* order dated 19.07.2021, the learned Standing Counsel (Criminal) appearing on behalf of GNCTD sought time to place on record the latest circular dated 10.03.2021 issued by the office of the learned Principal District & Sessions Judge (Headquarters) Delhi to ensure that judicial officers of subordinate courts comply with an earlier Circular No.18383-508/Comp-Br/2020/THC dated 26.09.2020

pertaining to template orders requiring production of prisoners in court, in-line with section 267 Cr.P.C., and other related matters. Under cover of status report dated 26.04.2021, the said circular dated 10.03.2021 was also placed on record.

5. However, in the course of the last hearing, Ms. Alpana Pandey, learned counsel appearing for the petitioner argued that while other compliances may have been made, the petitioner deserves to be compensated for the 10 days' delay in releasing him from prison *i.e.*, for the period between 15.06.2020, when he furnished requisite securities, and 25.06.2020 *i.e.*, the date on which he was finally released.
6. Ms. Pandey placed reliance on the verdict of the Hon'ble Supreme Court in ***Bhim Singh, MLA vs. State of J & K & Ors***¹ to submit that the court is entitled to award monetary compensation even by way of exemplary costs or otherwise, as held in the said case.
7. Opposing the said prayer, Mr. Sanjay Lao, learned Standing Counsel (Criminal) appearing for the prison authorities submitted that though by its various orders, this court had pursued the matter in order to streamline processes for issuance of production warrants and to ensure that there was no laxity or delay in releasing prisoners who had been admitted to bail, in so far as the petitioner's own case is concerned, that stood closed *inter-alia vidé* order dated 26.06.2020, and no further relief ought to be granted to the petitioner.

¹ (1985) 4 SCC 677

8. In order to address the above contention, this court notices the following portions of various orders made in the course of the present proceedings:

Order dated 26.06.2020

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6. While the relief in the present petition does not survive as the petitioner has been released though belatedly, it is deemed appropriate to take the matter to its logical conclusion by directing the respondent to file an affidavit stating inter alia the date on which a copy of the order dated 18th May, 2020 passed by the learned MM, South-West, Dwarka, New Delhi, admitting the petitioner to bail was served on the jail authorities and explaining the reasons for illegally detaining him till late last night. The said affidavit shall be filed by the Superintendent Jail, Jail No.1, Tihar Jail, within 3 days with a copy furnished to learned counsel for the petitioner.

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Order dated 06.07.2020

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1. On the last date of hearing i.e., on 26.6.2020, we had recorded that while the relief in the present petition filed by the petitioner stating inter alia that he had been illegally detained in jail, did not survive as he had been released from jail a night before i.e., on 25.6.2020, it was deemed appropriate to direct the respondent/Jail Authorities to file an affidavit explaining the reason for illegally detaining the petitioner after the order dated 18.5.2020, was passed by the learned MM Dwarka Courts, New Delhi admitting him to bail.

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Order dated 06.08.2020

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3. Having perused the Status Report filed by the D.G. (Prisons), we propose to let the matter rest here. However, taking note of the explanation sought to be offered by the Superintendent, Central Jail-I, for unlawfully detaining the petitioner in prison beyond

20.06.2020, we are of the opinion that officers posted in the jails, particularly, those of the rank of the Superintendents, Deputy Superintendents and Assistant Superintendents must be apprised of their duties and obligations in law so that such an incident is not repeated in the future.

* * * * *

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(emphasis supplied)

9. On a combined reading of the aforesaid orders, we are inclined to agree with Mr. Lao’s submission that insofar as the petitioner’s own case is concerned, considering the prayers made in the petition and the fact that the petitioner stood released from prison even before the very first date of hearing in this matter, nothing further survives insofar as the prayers made in the petition are concerned; and that it was so observed by the Bench in the orders extracted above. Upon a conspectus of the status reports filed and the apologies and explanations tendered, the court had laid the matter to rest, save and except *only* the course-corrective measures that were taken subsequently.
10. Insofar as the petitioner’s reliance on the decision in *Bhim Singh, MLA* (supra) is concerned, we may only note that in the concluding portion of that judgment, the Supreme Court says:

*“2. That we have the right to award monetary compensation by way of exemplary costs or other-wise is now established by the decision of this Court in *Rudul Sah v. State of Bihar and Sebastian M. Hongray v. Union of India*. When a person comes to us with the complaint that he has been arrested and imprisoned with mischievous or malicious intent and that his constitutional and legal rights were invaded, the mischief or malice and the invasion may not be washed away or wished away by his being set free. In*

appropriate cases we have the jurisdiction to compensate the victim by awarding suitable monetary compensation.”

(emphasis supplied)

However, in the present case, the petitioner has not placed any material on record to substantiate a case of ‘mischief’ or ‘malicious intent’ as would warrant the grant of monetary compensation in-line with the verdict of the Supreme Court in the above case. While *in an appropriate case*, this court certainly has powers to award monetary compensation for infraction of constitutional or other rights, in our opinion, in the present case, there is nothing to make-out a case of mischief or malice; and consequently, there is no basis for award of any compensation. The decision of the Supreme Court in *Bhim Singh, MLA* (supra) is accordingly of no avail to the petitioner in the present case.

11. In view of the above, we find no merit in the petitioner’s plea for awarding compensation or damages in the present case; which plea we accordingly reject.
12. No further directions are called for in the matter.
13. The writ petition is accordingly disposed of.
14. Other pending applications, if any, also stand disposed of.

SIDDHARTH MRIDUL, J

ANUP JAIRAM BHAMBHANI, J

SEPTEMBER 30, 2021/Ne