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

*Reserved on: 8<sup>th</sup> February, 2021*

*Date of decision: 3<sup>rd</sup> June, 2021*

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**BAIL APPLN. 1886/2020**

NARENDER KASANA @ NARENDRA KUMAR..... Petitioner

Through: Mr. Abhijat, Mr. Jindal and Mr. Arpit, Advocates. (M:8826908171) with Mr. Anurag Singh and Mr. Anand Kataria, Advocates (M: 9716913648).

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Rahul Mehra, Standing Counsel with Mr. Chaitanya Gosain, Advocate. (M:9999981270) Inspector Mr. Ram Avatar Tyagi with, SI Ankit Kumar, PS Karawal Nagar. (M:9971900652)

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUDGMENT**

**Prathiba M. Singh, J.**

1. A forged and fabricated Covid-19 certificate filed by the Petitioner to seek extension of his interim bail is the gravamen of the issue being considered. The onset of the Covid-19 pandemic has resulted in severe pressure on criminal Courts including in bail matters etc. Hundreds of cases have been filed before Courts, where bail or extension of bail has been sought on the basis of Covid-19 test reports however; it is not in all cases that such reports are genuine. As the facts of the present case would reveal, the Petitioner initially obtained interim bail from the trial court. Thereafter

he sought extension of the bail, which was declined. He then approached this court by filing the present petition, on the basis of a test report purportedly showing him to be COVID-19 positive. On the strength of the said report, extension was granted for his surrender. He then absconded and non-bailable warrants were issued by this court. Finally, he was arrested and is currently in custody. During this process, it was revealed that the Covid-19 test report which was filed before this Court was forged and various facts were fabricated. Further probing raised doubts that several persons may have played a role in misleading this Court including the Petitioner, his four nephews as also his counsel. During the course of proceedings, when status reports were sought from the police authorities, the verification was not properly done and a false Covid-19 test report was verified as being authentic and genuine. The facts also reveal several dents even amongst the staff of the District MMG Hospital, Ghaziabad, UP (*hereinafter as 'Hospital'*) where the Petitioner was allegedly admitted for a few hours and from where he absconded. As the case progressed, various facets were revealed which resulted in this Court directing an inquiry by the Registrar (Vigilance) of the Delhi High Court.

2. The Registrar (Vigilance) has, after conducting a detailed inquiry submitted her report dated 5<sup>th</sup> December, 2020. A copy of the report was supplied to the parties and to their ld. counsels. Submissions were heard in the matter and judgment was thereafter reserved.

***Brief chronology of events***

3. An FIR No. 326/17 was registered against the Petitioner under Section 3(4) of Maharashtra Control of organized Crime Act, 1999

“MACOCA”, at PS Karawal Nagar, (North-East) Delhi. The Petitioner was in judicial custody since 20<sup>th</sup> March, 2018. On 1<sup>st</sup> June, 2020 he was released on bail by the duty ASJ, North East District, Karkardooma Courts on the ground that his wife has to undergo surgery for gallbladder. Since the operation was delayed, extension of bail was sought. The Petitioner’s wife’s surgery was conducted on 16<sup>th</sup> June, 2020. Bail was thereafter extended by the Trial Court and finally vide order dated 25<sup>th</sup> June, 2020 the Petitioner was directed to surrender before the authorities on or before 29<sup>th</sup> June, 2020. The application seeking interim bail on the said date was dismissed, however, the Petitioner did not surrender. He created an excuse that he visited the Mandoli Jail but was not permitted to surrender on the ground that all interim bail was extended till 15<sup>th</sup> July, 2020. On 6<sup>th</sup> July, 2020, however, when he moved another application seeking extension of interim bail, the application seeking extension of bail was dismissed. The Court had also forfeited the bail bond and non-bailable warrants were issued against the Petitioner. Various allegations were leveled by the Petitioner against the Superintendent Central Jail Mandoli on the ground that he was not permitted to surrender. The Court at Karkardooma issued notice to the Superintendent Central Jail Mandoli on 7<sup>th</sup> July, 2020 and called for a reply on 13<sup>th</sup> July, 2020. The entire stage then shifts to the High Court. A *Vakalatnama* is stated to have been executed by the Petitioner in favour of two advocates – Mr. Anurag Singh and Mr. Anand Kataria on 10<sup>th</sup> July, 2020. The bail application is first stated to have been filed, in the High Court on 17<sup>th</sup> July, 2020 and re-filed on 23<sup>rd</sup> July, 2020. The facts, *inter alia*, pleaded in the bail application are:

- a) That while he was on interim bail, the Petitioner's health deteriorated and showed symptoms of Covid-19 and that he gave a sample for conduct of Covid-19 test at the Hospital.
- b) That the Covid-19 positive test report was received on 13<sup>th</sup> July, 2020. An application was moved before the Karkardooma Courts for seeking extension of interim bail and cancelling of non-bailable warrants.
- c) On 14<sup>th</sup> July, 2020, the said application was withdrawn and on the intervening night of 14<sup>th</sup>/15<sup>th</sup> July, 2020 the Petitioner got admitted to the Hospital. Hence the bail application on 17<sup>th</sup> July, 2020 on the ground that he is Covid positive.

4. The application for bail currently before the Court is dated 22<sup>nd</sup> July, 2020. The affidavit in support of the same has been filed by the Petitioner himself, however, the same is not notarized or attested by an oath commissioner.

5. The matter was listed before this court on 27<sup>th</sup> July, 2020. Considering the submissions of the counsels that the Petitioner has tested Covid-19 positive, the date for his surrender was extended till 14<sup>th</sup> August, 2020. The relevant portions of the order are set out below:

*"2. The present petition has been filed seeking further interim bail for a period of 45 days. The Petitioner in this case, was granted interim bail for a week vide order of ld. ASJ dated 1<sup>st</sup> June, 2020, which was extended on several occasions, finally till 29<sup>th</sup> June, 2020. It is the case of the Petitioner that he went to the Mandoli Jail to surrender, however, he was not allowed to surrender and accordingly he made a call on '100' number to the Police Control Room (PCR).*

3. *Till date, the Petitioner has not surrendered and non-bailable warrants (NBWs) have been issued against him and surety has also been invoked.*

4. *The case of the Petitioner is that he has now been tested Covid-19 positive and admitted in the MMG District Hospital, Ghaziabad. The Covid-19 test report and Admission Slip of the Hospital have been placed on record. Mr. Raghuvinder Verma, Id. APP to verify the same through the Investigating Officer (IO) along with the assistance of the SHO, Ghaziabad.*

5. *Since it has been stated that the Petitioner has now tested Covid-19 positive, the date for his surrender is extended till 14<sup>th</sup> August, 2020. Id. counsel for the Petitioner submits that immediately upon his discharge from the hospital, the Petitioner would surrender. The invocation of surety shall therefore not be pressed till the next date by the prosecution*”

Relying on the test report filed with the petition, which showed that the Petitioner had tested positive, the date for his surrender was extended till 14<sup>th</sup> August, 2020. Simultaneously, the Id. APP who had appeared before the Court was directed to conduct a verification and file a status report as well.

6. On the next date, shockingly i.e., 13<sup>th</sup> August, 2020 it was submitted by the Id. APP that the Petitioner has absconded from the Hospital. On 18<sup>th</sup> August, 2020, in view of the suspicion raised, the Court passed detailed directions to the following effect:

*“5. The status report was thereafter filed which unfortunately revealed that the Petitioner has absconded from the hospital in Ghaziabad. The status report reads as under:*

*“(1) That the medical documents (certificates) of petitioner Narender*

Kasana, has been verified from District MMG Hospital, Ghaziabad (UP) and found genuine.

(2) That as per the Covid-19 test report issued by Infectious Disease Control Room Ghaziabad (UP) petitioner Narender Kasana Age 35 yrs was found Positive on 13/07/2020.

(3) That as per the report of Dr. M.K. Chaudhary (EMO) MMG District Hospital Ghaziabad, UP patient Narendra Kasana @ Narender Kumar got Admitted on 15/07/2020 at 12:15 AM vide EOPD No-14019 1 PD No-3812 and absconded at 2:00 PM on the same day i.e. 15/07/2020 from the Hospital.”

6. As per the above status report, the Petitioner had absconded from the hospital on 15<sup>th</sup> July 2020 itself. A perusal of the present petition shows that the petition is lodged on 22<sup>nd</sup> July, 2020. However, the affidavit has been signed on 15<sup>th</sup> July, 2020. The vakalatnama issued in favour of the lawyers has been signed on 10<sup>th</sup> July, 2020. Since the Petitioner is stated to have absconded on 15<sup>th</sup> July, 2020, the filing of the present petition and getting the bail extended on a wrong premise on 27<sup>th</sup> July 2020 is a clear misrepresentation. It is also inexplicable as to how the petition was filed on 22<sup>nd</sup> July, 2020, with an affidavit of 15<sup>th</sup> July, 2020 after the Petitioner had absconded from the hospital. This clearly gives an impression to the Court that the counsels who appeared on 27<sup>th</sup> July, 2020 may have been aware of the fact that the Petitioner had absconded and this fact was not brought to the notice of this Court when the matter was listed on 27<sup>th</sup> July, 2020.

7. Issue non-bailable warrants (NBWs) against the Petitioner. The said warrants shall be executed by the

*concerned police officials along with the cooperation of the local police in Ghaziabad and/or U.P., if required.*

*8. Let the status report on the execution of the bailable warrants be filed within two weeks.*

*9. In the meantime, Id. counsels for the Petitioners shall provide to the IO/APP concerned all the details of the Petitioner including mobile number, house address etc., Ld. Counsels for Petitioner to also place on record their personal affidavits as to when the Petitioner had got in touch with them, when and where the case papers including the affidavit/vakalatnama was signed and also as to whereabouts of the Petitioner and/or his family, who may have been in touch with the counsels. Affidavits be filed within two weeks.*

*10. Mr. Anurag Singh, Id. counsel submits that the case was filed on 17<sup>th</sup> July, 2020. However objections were removed on 26<sup>th</sup> July, 2020. Registry to file a complete status report as to when the matter was lodged and the details of the processing of the said petition.”*

7. From the above order it is clear that the Court began to doubt the version of the Petitioner that he was in Hospital on 15<sup>th</sup> July, 2020 due to Covid-19. He had absconded on the same date. This fact had not been brought to the notice of this Court when the matter was first heard on 27<sup>th</sup> July, 2020 – almost 12 days after he had absconded. Extension of date of surrender was obtained on a false pretext that the Petitioner is Covid positive as though he was still in hospital. A submission was made to the Court that he would surrender upon release from hospital, when clearly it appeared to the Court that the counsels were aware that he had absconded by then. The counsels were, thereafter, directed to give their respective

mobile numbers etc., in order for the police to look into the matter. The Registry of the High Court was also directed to place a complete status report. On 28<sup>th</sup> August, 2020, the Petitioner continued to remain absconding. On the said date, the local DCP of the area concerned was directed to take steps to arrest the Petitioner.

8. The counsels for the Petitioner filed their affidavits, which were considered by the Court on 3<sup>rd</sup> September, 2020 and the Id. APP was directed to inquire into the same. Non-bailable warrants, which were issued on 18<sup>th</sup> August, 2020 against the Petitioner, was also directed to be executed. The DCP (North-East Delhi) was directed to take cooperation of the U.P. Police. On 17<sup>th</sup> September, 2020, this Court was informed that the Petitioner who had absconded on 15<sup>th</sup> July, 2020 was arrested and was sent to custody by the order of the Id. ACMM, Karkardooma Courts. On the said date, the Investigation Officer (IO) was directed to look into the matter and see if there were any telephone calls exchanged between the counsels and the Petitioner from 14<sup>th</sup> July, 2020 and a status report was called for, after verifying the CDR.

9. On 12<sup>th</sup> October, 2020, the Petitioner who joined the proceedings from the jail claimed that he did not remember the name of the lawyer whom he had engaged and that his nephew had got the affidavit signed by him on 15<sup>th</sup> July, 2020. The status report was also filed by SHO, PS Karawal Nagar. Insofar as the status report which had to enquire into the calls between the counsel and the Petitioner are concerned, the following was recorded on 12<sup>th</sup> October, 2020:

*“2. The Petitioner - Narender Kasana has joined the Court proceedings from jail. He states that he does not*



*remember the name of the lawyer who he had engaged. He states that the vakalatnama was earlier signed and his nephew i.e. his brother in law's son had the affidavit signed by him on 15<sup>th</sup> July, 2020 when he was in the hospital in Ghaziabad.*

*3. The status report has been filed by the SHO Karawal Nagar which states that the Petitioner had six mobile numbers. As per the status report, after an analysis of the call data record of the Petitioner's advocate, it does not appear that there was any call between any of the Petitioner's numbers and the number of the ld. counsel - Mr. Anurag Singh which was given by him in Court on the last date.*

*4. In the present matter, as is evident from the previous orders dated 27<sup>th</sup> July, 2020 and thereafter, the Petitioner had approached this Court seeking bail by filing a petition on 22<sup>nd</sup> July, 2020. The vakalatnama was signed on 10<sup>th</sup> July, 2020 and the matter was listed on 27<sup>th</sup> July, 2020 before this Court seeking extension of interim bail on which date bail was extended till 14<sup>th</sup> August, 2020. As the events thereafter unfolded, the Petitioner absconded from the hospital on 15<sup>th</sup> July, 2020 itself, however, this fact was not brought to the notice of this Court by the ld. counsel appearing on 27<sup>th</sup> July, 2020. The Petition was filed on 22<sup>nd</sup> July, 2020 with an affidavit dated 15<sup>th</sup> July, 2020 i.e. the date on which the Petitioner absconded from the hospital. Accordingly, on 18<sup>th</sup> August, 2020 this Court had issued non-bailable warrants against the Petitioner. The Petitioner was re-arrested on 4<sup>th</sup> September, 2020 and sent to judicial custody by the ld. ASJ Karkardooma Courts.*

*5. Mr. Anurag Singh, Ld. counsel on the other hand, submits that the Petitioner had voluntarily surrendered and was not arrested by the police at all. He relies upon the order passed by the ld. ASJ on 4<sup>th</sup> September, 2020. Let the order be placed on record.*

6. *Considering the overall facts and circumstances of this case, this Court is concerned about the fact that on the day when extension of interim bail was granted, the Petitioner had already absconded. The Court was not informed of this fact and the Petitioner did not even surrender when the bail period had expired. He finally appears to have been re-arrested on 4<sup>th</sup> September 2020 after this Court had issued non-bailable warrants. The bail petition having been filed and listed before this Court on 27<sup>th</sup> July 2020, the counsels had a duty to inform the court that the Petitioner had already absconded from the hospital. Instead this Court was categorically informed that the Petitioner was detected with COVID-19 and was in a hospital in Ghaziabad. It was under those circumstances that the interim bail was extended. On the next date i.e. 18<sup>th</sup> August, 2020 when the Court enquired from counsels as to who was giving them instructions, no proper answer was forthcoming. If the counsels were aware of the fact that the Petitioner had absconded and failed to inform the same to this court, it is a matter of serious concern.*

7. Today, the status report filed by the police is received which does not provide sufficient information. The petitioner who appears before the Court states that he does not remember the name of the lawyer whom he had engaged. He simply states that he had signed the affidavit which was brought to him by his nephew in the hospital on 15<sup>th</sup> July 2020. Accordingly, it is deemed appropriate to direct the Registrar (Vigilance), Delhi High Court to enquire into the matter fully and place a report before this Court. Specifically, the Registrar (Vigilance) would enquire as to the timing of the filing of the bail application and also whether the counsels were aware of the Petitioner having absconded on 15<sup>th</sup> July 2020, prior to the listing of the matter itself. The Delhi Police, Counsels for Petitioner and Jail Authorities are directed to

extend complete cooperation to the Registrar (Vigilance). Let the report be filed within eight weeks.

As is evident from the above order, this Court was not satisfied by the status report filed by the SHO, PS, Karawal Nagar wherein it was claimed that no call was exchanged between the counsel and the Petitioner. Since the issues were of serious concern, the Registrar (Vigilance) was directed to inquire into the matter and file a report.

**Inquiry Report by the Registrar (Vigilance)**

10. The report of the Registrar (Vigilance) has been received. The Registrar (Vigilance) has conducted a detailed inquiry and has examined a number of witnesses who are as under:

**EW-1** Mr. Ankush Garg, Judicial Assistant, Filing Counter, High Court of Delhi

**EW-2** Mr. Aniket @ Nitin (nephew of the petitioner who was in touch with Mr. Kataria)

**EW-3** Mr. Narender Kasana (petitioner)(statement recorded from Jail through videoconferencing)

**EW-4** Mr. Anurag Singh (counsel for the petitioner)

**EW-5** Mr. Anand Kataria (counsel for the petitioner)

**EW-6** Mr. Ashu (nephew of the petitioner who was in touch with Mr. Kataria)

**EW-7** Dr. M.K. Chaudhary, Consultant Pathology, District MMG Hospital, Ghaziabad (the doctor who attended to the petitioner on 15.07.2020)

**EW-8** Mr. Abhishek Gurjar @ Ankur (nephew of the petitioner who as per the hospital records brought him to the hospital on 15.07.2020).

**EW-9** Dr. Suruchi Saini, Microbiologist, Integrated Disease Surveillance Program (IDSP), Ghaziabad (the doctor under whose hand allegedly the Covid-19 test report dated 13.07.2020 of the petitioner filed with the bail application was issued).

**EW-10** Dr. Pragya Prasad, Senior Consultant Pathologist, District MMG Hospital, Ghaziabad, UP (The doctor who produced the records pertaining to the Covid-19 test report of the petitioner dated 15.07.2020 issued by the lab of District MMG Hospital, Ghaziabad, UP.)

**EW-11** Mr. Ramavtar Tyagi, SHO Police Station, Karawal Nagar, Delhi. (He made the status report qua the verification of documents and mobile phone calls.)

**EW-12** SI Love Deswal, Police Station, Karawal Nagar, Delhi (He authored the letter seeking verification of documents from the hospital)

**EW-13** SI Amit Malik, Police Station, Karawal Nagar, Delhi (He went to the District MMG Hospital, Ghaziabad, UP for verification of documents filed with the bail application.)

**EW-14** Mr. Ashish Kumar, Ward Boy, Surgical Ward, MMG Hospital, Ghaziabad (Asper Nitin (EW2) he helped the petitioner to get admission in the hospital and as per Ankur he had sent him the photographs of the test report through WhatsApp to send to Mr. Kataria.)

11. The Registrar (Vigilance) also recorded statements of these persons. The findings in the said report show a sorry state of affairs surrounding the present petition as also the role of the Petitioner, his counsels, police authorities and the Hospital authorities. The findings of the inquiry report are as under:

- i. The Petitioner met the counsel Mr. Anand Kataria on 10<sup>th</sup> July, 2020 in the Karkardooma Courts Complex and signed the *vakalatnama*.
- ii. The Petitioner and his nephews namely Mr. Akash, Mr. Ashu, Mr. Nitin and Mr. Ankur used six mobile phones among themselves.
- iii. As per the medical records produced by the Hospital, the Petitioner was admitted on the intervening night of 14<sup>th</sup>/15<sup>th</sup> July, 2020 at 12:15 a.m. and absconded from the Hospital at 2:00 p.m. on the same day. The reason for admission is shown as fever and there is no mention of Covid-19 infection. One of the documents i.e., EW 7/A shows that upon admission he was not found at his bed the temperature recorded of the Petitioner was 98 degree Fahrenheit and the blood pressure record was 120/70 mmHg.
- iv. The Consultant Pathologist EW-7 confirmed that the Covid-19 positive report was not shown at the time of admission, as, if he was Covid-19 positive he would have been referred to a Covid-19 hospital.
- v. The Covid-19 test report dated 15<sup>th</sup> July, 2020, when samples were taken, during admission revealed that the report was in fact negative.

vi. The affidavits of the Petitioner in support of the bail application were signed on 15<sup>th</sup> July, 2020 i.e., the date he had absconded.

vii. Counsels had wrongly claimed that they were not aware that he had absconded when they had appeared on 27<sup>nd</sup> July, 2020. The report reveals that the nephew Mr. Ashu collected the affidavits from Mr. Anand Kataria at Khajuri Khas and returned the same at 2:00 p.m. There is discrepancy between the versions given by the two nephews i.e., Mr. Ashu who took the affidavits from the counsel and Mr. Nitin who stated to have got the affidavits signed by the Petitioner.

viii. The version of the counsel Mr. Anand Kataria that he was not aware of the Petitioner having absconded from the Hospital on 15<sup>th</sup> July, 2020 both on 27<sup>th</sup> July, 2020 and 13<sup>th</sup> August, 2020 is belied by the fact that after the affidavits were received on 15<sup>th</sup> July, 2020 by the counsel till the first date of hearing on 27<sup>th</sup> July, 2020, there were numerous calls between Mr. Anand Kataria and the above mentioned telephone numbers which were used by the Petitioner and his various nephews. The counsel's version was that he has only spoken to the nephew on a few occasions, however, the CDR shows that the calls were exchanged between the Petitioner on his mobile number (9319559709) and Mr. Anand Kataria's mobile number (8802879036). The details of the said calls are as under:

<b>Date</b>	<b>Number of calls exchanged</b>	<b>Duration (Approx)</b>
13.07.2020	12 (besides 2 SMS)	15 minutes
14.07.2020	4 (besides 2 SMS)	8 minutes
15.07.2020	12	14 minutes
16.07.2020 to 26.07.2020 (first date of hearing on 27.07.20)	22 (besides 3 SMS)	31 minutes
27.07.2020 to 12.08.2020 (second date of hearing on 13.08.2020)	57	103 minutes
<b>Total</b>	<b>107 calls</b>	<b>171 minutes</b>

ix. The other calls exchanged between the counsel, Mr. Kataria and the nephews of the Petitioner are as under:

A) Between Mr. Kataria (8802879036) and the mobile phone number of Akash (9990978775), the nephew of the petitioner

<b>Date</b>	<b>Number of calls exchanged</b>	<b>Duration (Approx)</b>
11.07.2020 to 21.07.2020 (first date of hearing on 27.07.2020)	7	3 minutes
29.07.2020 to 30.07.2020 (second date of hearing on 13.08.2020)	3	13 minutes
<b>Total</b>	<b>10</b>	<b>16 minutes</b>

B) Between Mr. Kataria (8802879036) and the mobile phone nos. (8851469299 and 8076585890) of Ashu, nephew of the petitioner

<b>Date</b>	<b>Number of calls exchanged</b>	<b>Duration (Approx)</b>
<b>Mobile No. 8851469299</b>		
13.07.2020	3	3 minutes
27.07.2020(first date of hearing on 27.07.2020)	1	27 seconds
28.07.2020 to 31.07.2020(second date of hearing on 13.08.2020)	4	2 minutes
<b>Mobile No.8076585890</b>		
27.07.2020 to 01.09.2020	2	2 minutes
<b>Total</b>	<b>10</b>	<b>33 minutes</b>

C) Between Mr. Kataria (8802879036) and the mobile phone number (7017287132) of Nitin, nephew of the petitioner:

<b>Date</b>	<b>Number of calls exchanged</b>	<b>Duration</b>
28.07.2020 to 12.08.2020(second date of hearing on 13.08.2020)	30 (besides 2 SMS)	21 minutes

x. The nephew- Mr. Nitin in his statement to the inquiry Officer admitted that he met the counsel at Khajuri Khas which is the counsel's residence several times between 15<sup>th</sup> July, 2020 and 27<sup>th</sup> July, 2020. One significant revelation that he made to the inquiry Officer was that he went with the Petitioner to the office of the counsel on the night of 15<sup>th</sup> July, 2020 i.e., the day he has absconded.



The relevant portion of the report confirmed the same and is set out below:

“7.5 It is further important to note that *Nitin (EW2)* in his statement has admitted that he met *Mr. Kataria with the petitioner in Khajuri Khas many times between 15.07.2020 and 27.07.2020 and that he went with the petitioner to the office of Mr. Kataria on the night of 15.07.2020...*”

xi. The inquiry report also confirms that the location of the mobile numbers reveals that on 15<sup>th</sup> July, 2020, 16<sup>th</sup> July, 2020 and 21<sup>st</sup> July, 2020 for various durations, the Petitioner’s mobile location was at Khajuri Khas, especially in late evenings. The counsel spoke several times from 15<sup>th</sup> July, 2020 till first date 27<sup>th</sup> July, 2020 and thereafter even till 13<sup>th</sup> August, 2020 with the Petitioner and his nephews. Another important fact revealed in the inquiry was that in the Hospital admission slip it shows that the Petitioner was brought by Mr. Ankurhis nephew to the Hospital and from outside the Hospital the Petitioner and his nephew called Mr. Anand Kataria who advised the Petitioner to get admitted. There were six calls exchanged at that time with the counsel, during the time of admission.

xii. **Covid-19 test report:** The Covid-19 test report reveals that it was purportedly signed by one Dr. Suruchi Saini, however, she was examined as EW-9 and has confirmed that she has not issued the test report and the same was also not authentic. The Hospital records were produced before the inquiry Officer to show that the Petitioner’s sample was not taken on 8<sup>th</sup> July, 2020. She had

categorically ascertained that the same was a fabricated document. Since the third column i.e., the Lab ID was not mentioned which was compulsorily to be filed in the Covid-19 patient, it is clear that the report was forged.

xiii. **Manner of procuring the test report:** The inquiry Officer, further, looked into the question as to how the said fake test report was issued with the seals of the Hospital. The counsel claimed that the report was received from one of the nephews of the Petitioner along with the admission slip, however, he could not prove the same from his phone records. The colleague of Mr. Anand Kataria, Mr. Anurag Singh showed a WhatsApp message he received from his colleague on 13<sup>th</sup> July, 2020 with the test report which was filed with the interim bail initially at the Karkardooma Courts and thereafter before this Court. As per the inquiry report, the Covid-19 test report was arranged by one Mr. Ashish who was working as a nursing assistant at the Hospital. The report, thus, appears to have been procured with the help of an insider in the Hospital. Mr. Ashish Kumar was a ward boy working in the Hospital who was in touch with the Petitioner on 13<sup>th</sup> July, 2020 itself prior to his admission. There were more than 200 calls exchanged between Mr. Ashish Kumar and the Petitioner and also his nephews. The counsel for the Petitioner Mr. Anand Kataria had made a call to the nursing assistant- Mr. Ashish on 13<sup>th</sup> July, 2020 for 77 seconds.

xiv. **Status report filed by the Petitioner:** The status report filed by PS Karawal Nagar shows that the Covid-19 report was verified, however, in fact the same was not at all verified properly from the

appropriate authorities i.e., the Integrated Disease Surveillance Program (IDSP), Ghaziabad. The report was not issued by the Hospital. Hence the police had failed to verify it from the appropriate authority. The police authorities seem to suggest that when the constable visited the Hospital on 13<sup>th</sup> August, 2020, he could not find any doctor or staff member since the report had to urgently filed, it was stated in the report that the Covid-19 test report was verified.

***Submissions by the Id. Counsel appearing for the Petitioner's lawyers:***

12. Mr. Abhijat, Id. counsel appeared for Mr. Anand Kataria and Mr. Anurag Singh, counsels who appeared for the Petitioner in this matter. He submitted that insofar as Mr. Anurag Singh, Id. counsel is concerned, the inquiry report submitted by the Registrar (Vigilance), Delhi High Court, as per the order dated 12<sup>th</sup> October, 2020, itself concluded that he may not be in the knowledge of the fact that the Petitioner was not admitted to the hospital or that he had absconded. Insofar as Mr. Anand Kataria is concerned, it was submitted by Mr. Abhijat, Id. counsel that the mere fact that he had exchanged approximately 40 calls between 15<sup>th</sup> July, 2020 to 27<sup>th</sup> July, 2020 cannot lead to the conclusion that the counsel was aware of the fact that the Petitioner had absconded from the hospital. On behalf of Mr. Kataria, Mr. Abhijat, Id. counsel submitted that he expresses enormous remorse and regret for what has happened in this matter. He further submitted that as a counsel, Mr. Kataria never intended to mislead this Court.

### ***Submissions by Counsel for the Police***

13. Insofar as police is concerned, Mr. Rahul Mehra, Id. Standing counsel submitted that the PSO, Mr. Amit Malik, Karawal Nagar had approached Dr. M.K. Chaudhary at the Hospital. Though he could have done a detailed inquiry further, however, he went by the response given by the hospital without doing the detailed investigation. Mr. Ankit Kumar, SI had done the verification of the documents and the SHO Ram Avatar Tyagi had only filed the status report. The SI was accompanied by constable Mr. Jai Prakash and because of non-availability of the doctor, at that stage, they did not acquire information that the report was forged.

### ***Analysis and Conclusions***

14. Heard and perused the records as well as the Inquiry Report. A perusal of the inquiry report along with the detailed statements and the other records obtained from the various authorities which have been annexed therewith, shows that the Petitioner and his nephews have all coordinated with the counsel and have fabricated the test report and placed incorrect/false facts before the Court. The Petitioner himself has made false statements on oath in the bail application. The Petitioner was actually Covid-19 negative as per the Hospital's record. The fact that he absconded was hidden from the Court on 27<sup>th</sup> July, 2020 when the date for surrender was extended. The counsel Mr. Anand Kataria was clearly aware of all the facts right from the beginning. He had spoken to the nursing assistant, Mr. Ashish who was finally found to be the person who prepared the fabricated test report. The said counsel had made incorrect statements or instructed his colleague wrongly, to make statements before the Court that counsels were

not in touch with the Petitioner and were not aware that he has absconded. In fact, the report reveals the contrary. The Petitioner along with his nephew appears to have met the counsel Mr. Kataria, on the night of 15<sup>th</sup> July, 2020 after absconding from the Hospital. Even thereafter, hundreds of calls have been exchanged between the Petitioner, his nephews and the counsel Mr. Anand Kataria and Mr. Ashish. The assurance given to the Court on 27<sup>th</sup> July 2020, “that immediately upon his discharge from the hospital, the Petitioner would surrender” was a false representation made to the Court, knowing fully well that the Petitioner had already absconded. This Court is *prima facie* of the opinion on the basis of the inquiry report as also the chronology of events which transpired before the Court from the date of first listing of the bail application till the Petitioner was rearrested that the Petitioner, his nephews and the counsel Mr. Anand Kataria were fully involved in making false statements before this Court, completely misleading the Court and obtaining orders for extension of the date of surrender on the basis of false and incorrect facts as also forged and fabricated documents. The Covid-19 report has been refuted by the authorities concerned, who have confirmed that it is forged and fabricated. The Petitioner, in fact, did not suffer from Covid-19. The events i.e., the admission of the Petitioner to the Hospital along with the filing of the fabricated test report goes to show that the same was stage managed. The police authorities have also been callous in the filing of the status reports and confirming that the Covid-19 test report is genuine. The police have also failed to properly analyse the CDR records despite specific directions from the Court.

15. There is a need to take a very strict view of the matter. The findings of the inquiry report are extremely revealing and telling. The same are set out below:

Conclusions of the Inquiry Report:

*“12 To conclude, the findings of this inquiry are summarised as follows:*

*(i) On 17.07.2020 when the bail application of the petitioner was filed for the first time and subsequently when the bail application of the petitioner was filed again on 23.07.2020 and re-filed on 24.07.2020 and heard for the first time on 27.07.2020, as per the medical record (Ex.EW7/A) of the petitioner, contrary to the claim in the bail application, the petitioner was neither suffering from Covid-19 infection nor admitted in any hospital on the said dates.*

*(ii) The Covid-19 test report (Ex.EW4/C) of the petitioner filed with the bail application, as per the statement of Dr. Suruchi Saini (EW9), is a forged document.*

*(iii) As per the medical record (Ex.EW7/A), the petitioner was admitted in the District MMG Hospital, Ghaziabad, UP on 15.07.2020 at 12:15 am and was found absconding from the hospital at 2:00 pm, the same day.*

*(iv) The fact that the medical record (Ex.EW7/A) of the petitioner shows that the admission in the hospital was not because of Covid-19 infection but fever; nothing abnormal was detected in his health parameters; he was missing from the hospital bed during the period of admission; he absconded from the hospital barely within 14 hours of the admission and; the Covid-19 test report of the petitioner dated 15.07.2020 (test done after he was admitted) was negative, show that apparently the admission was got*

*managed by the petitioner only for the purpose of securing the record of admission in order to get bail.*

*(v) The two affidavits of the petitioner filed with the bail application and petition under Section 482 Cr.P.C were apparently sent for getting the signatures of the petitioner (EW3) by Mr. Kataria (EW5) through his nephew Ashu. These as stated by Mr Kataria were returned back after getting the signatures of the petitioner to him by Ashu around 2:00 pm on 15.07.2020. Significantly, the CDR (Ex.EW11/C) of the mobile phone of Mr. Kataria show that there was exchange of calls between Mr. Kataria and the petitioner on the said date even after the affidavits were claimed to have been signed. Also the CDR (Ex.EW11/C) of the mobile phone of Mr. Kataria show that from 15.07.2020 till the first date of hearing on 27.07.2020 there were 34 calls exchanged between the petitioner and Mr. Kataria and 6 calls exchanged between Mr. Kataria and the mobile phone used by his nephew Akash, showing they were constantly in touch with each other, thereby making it difficult to believe that Mr. Kataria was unaware that the petitioner was not admitted in the hospital on the first date of hearing, i.e., on 27.07.2020 or second date of hearing, i.e., 13.08.2020. However, there has nothing come forth in the Inquiry to presume or hold that Mr. Anurag Singh was aware about the petitioner not being admitted in the hospital on the first date of hearing, i.e., on 27.07.2020 or second date of hearing, i.e., 13.08.2020."*

The report submitted by the Registrar (Vigilance) has set out the various facts in such intricate detail that this Court is fully satisfied that a case is made out for a detailed enquiry by the Magistrate in accordance with law and for registration of an FIR.

16. The facts set out above and the contents/conclusions in the Inquiry Report, reveal that the Petitioner, his nephews and the counsel- Mr. Anand Kataria have been complicit and have colluded with each other. They have made deliberate attempts to mislead this Court. Clearly, the police authorities also appear to have not performed their duties as was required and expected of them in verifying the CDR records as also the Covid-19 test report. However, whether the conduct of the police was with a criminal intent or in collusion with the Petitioner/his nephews and his counsel, is not clear at this stage.

17. Insofar as the counsel-Mr. Anurag Singh is concerned, he is a colleague of Mr. Anand Kataria. Mr. Anurag Singh has appeared before this Court and even from the inquiry report it is clear that he had no role to play in either the forgery or the fabrication or the placing of facts before this Court. He has clearly gone on instructions from Mr. Anand Kataria, his colleague.

18. In the administration of the criminal justice, all authorities have a very important role to play viz., parties, counsels, police authorities, hospital authorities, jail authorities etc., It hardly needs reiteration that parties who come to Court have to come with clean hands. Especially during the pandemic, the Courts have been empathetic and compassionate towards persons who have been infected with Covid-19. Thus, to encash upon this empathy of Courts and to place on record forged and fabricated test reports is not condonable, at all. Moreover, the incorrect and misleading statements made before this Court claiming lack of knowledge, when clearly it is shown from the inquiry report, that the Petitioner had met one of the counsels on the day when he had absconded and has been in



touch with the said counsel even thereafter, reveals the intent to obtain extension for surrender by misleading the Court. The practices adopted in this case, by the Petitioner, his relatives, one of the counsels as also the callousness of the police authorities, clearly reveals the underbelly of the practice of criminal law. Counsels who appear in such matters have a greater duty towards the Court to ensure that the majesty of the Court is not lowered and that Courts are not misled into passing orders based on forged and fabricated documents and misleading/misrepresentative facts. The faith of Courts in counsels would be completely eroded if such conduct is indulged in by counsels.

19. The conclusions of the Inquiry Report are extremely telling. Administration of criminal justice would be severely jeopardized if such illegalities are condoned or if apologies given are accepted, when such brazen conduct is revealed. This Court is clearly of the opinion that all persons concerned need to be proceeded against with, in accordance with law. Accordingly, in exercise of powers under Section 340 Cr.P.C. read with Section 195 Cr.P.C., this Court directs the worthy Registrar General to refer the matter to the Court of the concerned Judicial Magistrate to conduct an inquiry and proceed in accordance with law against the Petitioner- Narender Kasana @Narendra Kumar, his four nephews-Mr. Akash, Mr. Ashu, Mr. Nitin and Mr. Ankur; Mr. Ashish, the nursing assistant at the District MMG Hospital and the counsel- Mr. Anand Kataria. The role of the police authorities would also be inquired into by the concerned Magistrate. Upon conducting an inquiry, the Magistrate would direct registration of an FIR, in accordance with law. Needless to add that

the observations in this order are *prima facie* in nature, based on the chronology of events that transpired as also the Inquiry Report.

20. The inquiry report along with all the annexures would be transmitted to the concerned Judicial Magistrate.

21. This Court places on record its commendation to the Registrar (Vigilance) for conducting such a thorough inquiry and placing of the necessary documents along with the inquiry report.

22. A scanned copy of the inquiry report and all the annexures, be retained with the electronic record of this case, before being transmitted the Judicial Magistrate, if not already done.

**PRATHIBA M. SINGH  
JUDGE**

**JUNE 3, 2021**  
*dj/RC*

सत्यमेव जयते