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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 9th July, 2024

+ **W.P.(CRL) 2029/2024**

VINOD

.....Petitioner

Through: Ms. Manika Tripathy along with Mr.
Naveen K. Sarswat & Mr. Rony John,
Advs. (M-9811831835)

versus

STATE N.C.T. OF DELHI

.....Respondent

Through: Mr. Sanjay Lao, Standing Counsel
(Crml.) with Mr. Priyam Agarwal &
Mr. Abhinav Kr. Arya, Advs. with
Inspr. Yogender, PS Nangloi.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE AMIT SHARMA

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. The present writ petition has been filed by Sh. Vinod under Article 226 of the Constitution of India read with Section 482 of the Cr.P.C seeking issuance of a writ of Habeas Corpus for production of his daughter who is stated to be a minor.
3. According to the Petitioner, his daughter was missing from 19th February, 2024 around 10:00 a.m. and the Petitioner suspects that one Shahnoor, son of Jumman Khan was involved in the kidnapping of his daughter. It is further averred by the Petitioner, that he immediately approached the Nangloi Police Station to lodge a complaint but the Police are stated to have instructed the Petitioner to wait for 24 hours presuming that the



minor girl may return within that period. Thereafter, the Petitioner again approached the Nangloi Police Station on 20th February, 2024, on which date, according to the Petitioner, a ‘missing person report’ was registered instead of FIR being registered for the offence of kidnapping. Since no proper investigation is claimed to have been conducted by the Police, the Petitioner has approached this Court with the following prayers:

*“i. Issue a Writ in the nature of Habeas Corpus or any other appropriate Writ to trace the missing daughter K of the Petitioner; and/or
ii. Pass any other order/ orders, which this Hon’ble Court may kindly deem fit and proper in the interest of Justice.”*

4. One of the allegations in the petition is that in the past, the said Shahnoor had allegedly kidnapped and raped the Petitioner’s daughter and a complaint was filed in district Unnao, Uttar Pradesh. Subsequently, a case was registered bearing no. **Crime No. 572/2022** under Sections 363, 366 of the IPC read with Sections 3, 4 of the Protection of Children from Sexual Offences (POCSO) Act and Section 3(1)(d) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. However, the said accused Shahnoor was granted bail and the Petitioner had then chosen to relocate to Delhi. The petition also alleges that various threats were received by the Petitioner’s minor daughter on her mobile number prior to her going missing on 19th February, 2024.

5. Mr. Lao, Learned Standing Counsel has filed a Status Report dated 09th July, 2024 giving the details of the action taken by the Police till date. The said status report is taken on record. As per the report during investigation, Call Detail Record (hereinafter ‘CDR’) of various numbers were being



checked, one of which was of the alleged suspect *i.e.*, Shaddam Khan s/o Jumman Khan, whose number is stated to be switched off since the day the girl went missing. The school certificate records the date of birth of the girl *i.e.*, Ms. K (Petitioner's daughter) as 1st January, 2007. Till date, the girl is not traceable.

6. The above chronology of facts reveals a disturbing situation. As per the petition, when the Petitioner approached the police on 19th February 2024, he was asked to return on 20th February 2024, if the girl did not return. The reason for this appears to be a presumption or speculation that children usually go with friends or relatives and return to their homes. However, the 24 hour delay may result in the child being taken outside the jurisdiction of the Court or some untoward incident taking place. In this case, the initial waiting for 24 hours by the police/investigating agencies before registering/filing a complaint appears to have caused delay in tracing the girl.

7. Thus, in the case of complaints relating to children going missing, irrespective of whether the child is a minor or a major; waiting for the 24 hour period could result in crucial time being wasted. Therefore, it is extremely important that immediate investigation and inquiries be conducted by the police/investigating agencies without waiting for 24 hours under the presumption that the person/child may return home.

8. In fact, Mr. Lao, Learned Standing Counsel points out that there is a Revised Standing Order No. 252 dated 18th March, 2009 which prescribes the '*duties of Police regarding missing persons and unidentified dead-bodies*'. The said standing order is taken on record. As per the said Standing Order insofar as missing persons, especially, missing children and all missing minor girls irrespective of age are concerned, a case shall be registered



mandatorily even if a suspicion is voiced by the complainant or arises otherwise. The relevant portion of the said Standing Order is extracted below:

“STEPS TO BE TAKEN BY THE INVESTIGATION OFFICER ON RECEIPT OF INFORMATION REGARDING MISSING PERSON

The following steps will be taken immediately on receipt of information regarding a missing person. It will be important to keep in mind that initial efforts within 15 days of the complaint will be of critical importance , and hence will be closely co-ordinated and monitored by all concerned:-

- 1. A Missing Report should be lodged in the Daily Diary **at once**, clearly mentioning the date and probable time when he/she was noticed to be missing. In this Report, all the details of the missing person including name, parentage, age, height, complexion, sex, clothes worn and any special mark of identification etc should be incorporated. The photograph of the missing person and the contact number of the complainant/relative should be obtained and placed on file.*
- 2. The Police Control Room, State Crime Record Bureau (SCRB), National Crime Record Bureau (NCRB) and ZIP NET should be informed **immediately**.*
- 3. A W.T. Message will be flashed on all India Level with the detailed description of the victim.*
- 4. Information will also be shared with the CBI, where a Cell relating to missing children/persons has been set up in CBI as per the directions of the Hon'ble High Court.*
- 5. A copy of the DD entry should be sent to the District Missing Persons Unit (DMPU) and Missing Person Squad (MPS), PS Kotwali, Delhi*
- 6. Hue and Cry notices should be prepared and issued.*
- 7. The I.O. should **immediately** begin enquiries from persons present at the scene or last seen, collect the details of possible suspects and question them without loss of time*
- 8. Cell phone details, if any, of the missing person should also be **immediately** obtained for further investigation as to his/her whereabouts.*
- 9. Photographs of the missing person should be given wide*



publicity at all the prominent outlets of the city/town/village concerned-that is, at the railway stations, inter-state Bus Stands, Airport, Regional Passport Office and through law enforcement personnel at Border Check Posts. This should be done **promptly** and in any case not later than one week of the receipt of the complaint. But in case the missing person is a girl/woman, prior written permission of parents/guardian/husband shall be taken before the photographs is published/broadcast.

10. Border Check Posts should be alerted **immediately**. In case of a missing minor, Check Post staff should also be sensitized to question unaccompanied minors/children or adults carrying children and behaving with them abnormally, during checking of vehicles/public transport.

11. Publicity should be given in surrounding areas using loud-hailers, if necessary.

12. All necessary publicity should be given in News Papers/Electronic Media. Publicity should also be given through local cable TV Network.

13. The parents/family members/friends and relatives should be examined to find out the probable cause of disappearance of the person.

14. It will be important to scrutinize the missing person's computer, diaries etc. if any, and his personal belongings for any clue. This exercise, of course, should be done with the concurrence of the family members/complainant.

15. In case of missing minors, areas/spots of interest such as Malls, Amusement Parks, Games, Parlours etc. should also be searched.

16. If available, surveillance/security cameras(CCTV) in the vicinity of the scenes or last seen should also be scanned.

17. Any person having terms with the missing person should be examined

18. The Police Officer handling the Missing Report should remain in touch with the complainant/family members to ascertain if any demand for ransom has been received.

19. Whenever should play is suspected a case shall be registered under relevant sections of law and investigated.



20. Enquiries should be made from the neighbouring police stations about any unidentified dead body found or information about missing persons admitted in the hospitals.

21. Enquiries should also be made from the hospitals about unidentified injured persons admitted in the hospitals.

22. Poor House, Children Home, Rain Baseras, Nari Niketan, Mortuaries in hospitals. NGOs record, etc. should be checked for the missing person.

23. In appropriate cases, a declaration of reward for furnishing clue about the missing person should be announced within a month of her/his disappearance.

24. The investigating Officer of the Missing complaint should periodically keep in touch with the complainant to update him on the efforts made, ascertain further clues, if any, and also to find out if the missing person has since returned on his/her own.

25. In case the missing person is traced, the Police Control Room, District Missing Persons Unit (DMPU) and Missing Persons squad (MPS) should be informed immediately for updating the record and for discontinuing the search.

REGISTRATION OF A CRIMINAL CASE

As regards further action on the complaint regarding a missing person, registration of a case will be mandatory in case of all missing children on the age of 12 years and below, and in case of all missing cases of minor girls irrespective of age. Further, in case of male children above 12 years, a case will be registered when a suspicion is voiced by the complainant or arises otherwise. A lady officer should preferably be entrusted with the investigation of a case related to a minor girl."

9. The Ministry of Women and Child Development has also formulated an SOP, titled 'Standard Operating Procedure For Cases of Missing Children' which states that upon receiving a complaint of a missing child, an FIR shall



be registered as trafficking or abduction. The relevant portion of the SOP is as under:

“...IV. ROLES AND RESPONSIBILITIES OF STAKE HOLDERS

When the Child goes missing:

Police

*a) As per the directions of the Hon'ble Supreme Court of India in Bachpan Bachao Andolan v. Union of India (WP (Civil) 75 of 2012) on 10th May 2013, - **“upon receipt of a complaint regarding a missing child, an FIR should be registered forthwith as a case of trafficking or abduction”**.*

b) Inform the Child Welfare Police Officer and forward the FIR to the Special Juvenile Police Unit for immediate action for tracing the child. Refer Annexure-I.

c) The police shall also:

i. Collect a recent photograph of the missing child and make copies for District Missing Persons Unit, Missing Persons Squad, National Crime Records Bureau/Media etc.;

ii. Fill the form “M” on the designated portal www.trackthemissingchild.gov.in Refer Annexure-II.

iii. Fill the specific designated “Missing Persons Information Form” and immediately send to Missing Persons Squad, District Missing Persons Unit, National Crimes Records Bureau, State Crimes Records Bureau, Central Bureau of Investigation, PCRs, Railway Police and other related institutions;

iv. Send the copy of the FIR by post/email to the office of nearest Legal Services Authority along with addresses and contact phone numbers of parents and legal guardians of the missing child or the child care institution, after uploading the relevant information onto the designated portal;

v. Prepare sufficient number of Hue and Cry notice containing photograph and physical description of the missing child to be sent for



publication;

vi. Give wide publicity by publishing or telecasting the photographs and the description of missing child, as feasible in:

(a) leading newspapers;

(b) Television/electronic media;

(c) local cable television network and

(d) social media and thereafter submit for ratification by the Board or the Committee or the Children's Court, as the case maybe;

vii. Give wide publicity in the surrounding area through the use of loud speakers and the distribution and affixture of Hue and Cry notice at prominent places. Social networking portals, short message service alerts and slides in cinema halls can be used to reach out to the masses;

viii. Distribute Hue and Cry notice at all the outlets of the city or town, that is, railway stations, bus stands, airports, regional passport offices, and other prominent places.

ix. Search areas and spots of interest such as movie theatres, shopping malls, parks, game parlours and areas where missing or runaway children should be identified and watched;

x. Scan the recordings of the Close Circuit Television Cameras installed in the vicinity of the area from where the child was reported missing and on all possible routes, transit and destinations.

xi. Inquire from under construction sites, unused buildings, hospitals and clinics, child line services and other local outreach workers, railway police and other places;

xii. Details of missing children should be sent to the District Crime Records Bureau of the neighboring States and Station House Officers (SHOs) of the bordering police stations including in charge of all police posts in their jurisdiction and shall conduct regular interaction with the concerned so that follow up



action is ensured.

d) Invoke the services of District Legal Services Authorities through empanelled lawyers and the paralegal volunteer (PLV) appointed at the police station or the district authority.

e) Upload information on the www.trackthemissingchild.gov.in portal. In case the information is already uploaded, match the complaint with case details uploaded on the portal.

f) Assess the level of threat or danger to the child, or his/her family and take immediate steps to ensure their protection.

g) Also inform immigration authorities, Border Security Force (BSF), Railways and other transport authorities, provincial/territorial and municipal agencies, and any NGOs involved in service delivery for spotting and recovering/rescuing the missing children.”

10. The above SOPs makes it adequately clear that action has to be taken ***immediately, promptly, forthwith and at once***. There is no scope for any speculation or conjecture that the child may return home in 24 hours and hence the police can wait. In fact, the first 24 hour-period is the crucial period or critical period, when steps for tracing of the missing person or child could lead to positive outcome.

11. Accordingly, let the Commissioner of Police look at the matter and give directions to all police stations to ensure that the waiting period of 24 hours is wholly unnecessary and in fact whenever a complaint is received, the inquiry/investigation should immediately commence.

12. In light of the above SOPs as also the observations made herein above, all the police stations shall ensure that there shall be no waiting period for 24 hours in the case of missing children to start inquiry/investigation.

13. Further, it is also submitted by the Learned Standing Counsel that



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considering the seriousness of the matter, the matter may be transferred to the Anti-Human Trafficking Unit (Crime Branch). Accordingly, the present case is transferred to the Anti-Human Trafficking Unit (Crime Branch), Delhi Police who shall conduct immediate and diligent investigation under the supervision of a Senior Officer not below the rank of an ACP and file a Status Report within a period of one week from today.

14. List on 16th July, 2024.

15. Let the present order be communicated to the Anti-Human Trafficking Unit (Crime Branch), Delhi Police by the Registry.

PRATHIBA M. SINGH, J.

AMIT SHARMA, J.

JULY 9, 2024

Rahul/ks/PC