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

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

SANJAY SINGH

..... Petitioner

Through: Ms. Alpana Pandey, Advocate.

Versus

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

.... Respondents

Through: Mr. Rahul Mehra, Standing Counsel
(Crl.) along with Mr. O.P. Pandey, Jail
Superintendent.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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21.07.2020

HEARD THROUGH VIDEO CONFERENCING

1. Pursuant to the order dated 06.07.2020, an affidavit has been filed by Mr. O.P. Pandey, posted as Superintendent, Central Jail-I, Tis Hazari, New Delhi. Having perused the said affidavit, we place on record our deep dissatisfaction with the explanation offered or rather, the lack of explanation offered by the deponent for unlawfully detaining the petitioner in prison for the period between 15.06.2020 to 25.06.2020.

2. The gross indifference of the jail authorities is apparent from a perusal of the averments made in para 4 (b) of the affidavit where it has been stated that the petitioner had been produced before the Duty M.M. in C.C. Nos.2317/2017 and 4768/2017, for being taken into judicial remand and as

per the custody warrant, the last date of hearing was 16.05.2020, whereafter, admittedly no steps were taken to verify the subsequent date of hearing in respect of the aforesaid complaints filed under Section 138 of the NI Act.

3. It is submitted by Ms. Pandey, learned counsel for the petitioner that the petitioner was granted bail in both the aforesaid complaints much before December, 2019 and he had completed all the requisite formalities as was directed, in the month of December, 2019 itself.

4. Even otherwise, the order dated 20.06.2020, passed by the learned M.M. in C.C. Nos.2317/2017 and 4768/2017 has clearly recorded that the petitioner was not in custody in the aforesaid cases. If any clarification was required in this regard, it was the bounden duty of the deponent to have ensured that appropriate steps were taken well in time to seek necessary clarifications from the concerned court.

5. The explanation sought to be offered in para 4 (d) to the effect that the petitioner could not be released on 20.06.2020 for want of release orders in respect of **Crl. Appeal No.88/2020** entitled Vikas Kumar Vs. Sanjay Singh, is also found to be devoid of merits, more so when the said appeal arises from a complaint made by the appellant under Section 138 of NI Act and he had filed the appeal against the petitioner herein being aggrieved by the order dated 30.11.2019 passed the learned M.M., Dwarka Courts in the C.C. No.5005622/2016. It is not in dispute that the petitioner had already undergone the sentence imposed on him in terms of the aforesaid order, by the end of January, 2020.

6. In view of the aforesaid facts and circumstances, we decline to accept the perfunctory apology sought to be offered by the deponent. In any case,

the said apology is not unqualified; instead, the deponent has offered several explanations for detaining the petitioner upto 25.6.2020, which do not ring true.

7. It is therefore deemed appropriate to direct the D.G. (Prisons) to conduct an inquiry into the matter and file a Status Report. The said report shall also furnish details of the number of occasions in the past three years when despite orders passed by courts admitting persons in custody to bail, he/she has not been released within 24 hours from the date of receipt of such orders, for reasons not attributable to the beneficiary of such an order. A column wise tabulated statement shall be enclosed with the Status Report indicating the date of the order, the case number, the date of release, the number of days of unlawful detention. Status Report shall be filed within three weeks with a copy to the other side.

8. List on 06.08.2020.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JULY 21, 2020

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