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

+ W.P.(CRL) 2786/2023

SUNIL KUMAR DAHIYA

..... Petitioner

Through: Ms.Anannya Ghosh, Mr.Brian
Henky Moses, Ms.Chitra Vats,
Ms.Ioel Bose & Ms.Darika Sikka,
Advocates

Versus

THE DIRECTOR GENERAL OF PRISONS & ANR.

..... Respondents

Through: Mr.Yasir Rauf Ansari, ASC
(Criminal) with Mr.Alok Sharma
& Mr.Vasu Agarwal, Advocates

Mr.Abhijit Shankar, Law Officer,
Tihar, New Delhi

Inspector Pankaj Kumar PS EOW.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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16.11.2023

1. Present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. seeking a writ of mandamus directing the Jail Superintendent, Central Jail No.3 to update nominal roll of the petitioner and in the form of Habeas Corpus seeking a direction to respondent No.1 for production and release of detune i.e.



petitioner, from illegal custody.

2. It is averred in the petition that petitioner is in custody since 30.10.2014 and despite having obtained bail in most of the cases for non-bailable offences, he has not yet been released. It is further averred that the Chief Metropolitan Magistrate (South), Saket Court vide order dated 18.07.2023 issued release warrants against the petitioner, however, the jail authorities have refused to process his release. The learned CMM vide order dated 23.07.2023 directed the Superintendent of Jail to provide case wise details of pending cases, disposed of cases, acquitted cases, undergone cases and convicted cases against the petitioner. The respondent No.2 informed the Court of learned CMM that 704 cases were pending against the petitioner and a copy of nominal roll dated 01.09.2023 was placed on record.

3. Attention of this Court has been drawn to Para- 2 (s) of the present petition to submit that 189 cases are pending against the petitioner as opposed to 389 cases reflected in the nominal roll. In the present petition, the petitioner has averred that in the nominal roll dated 01.09.2023, a list of cases wherein petitioner is not a party, dismissed cases and non-existent cases have also been reflected. It is averred that as per nominal roll dated 01.09.2023, petitioner is eligible to be released from further custody. Even the release warrants issued by the learned JMIC, Gurugram have not been complied with by the jail authorities. Thus, petitioner seeks his release from Central Jail No.3, Tihar Jail, Delhi.

4. Learned counsel appearing on behalf of the petitioner submits that in the communication dated 25.10.2023 by Deputy S.P. Central Jail No.03, Tihar, New Delhi to the learned CMM, Patiala House Courts,



New Delhi, a list of list of 29 cases has been given in respect of which status and next date of hearing is not known. Learned counsel submits that these cases have been transferred to the court at Gurgram, Haryana, and the petitioner has already been acquitted. However, these cases are shown as pending in the list of cases before the jail Superintendent concerned.

5. Relevantly, this Court vide order dated 16.10.2023 had disposed of the present petition while noting the contention of the *Parokar* appearing on behalf of petitioner that pursuant to orders dated 29.03.2023 and 11.07.2023, petitioner has been enlarged on bail and accordingly directed the Jail Superintendent concerned to release petitioner after making necessary verifications. On 20.10.2023 the Law Officer from Central Jail No.3, Tihar Jail, Delhi informed this Court that there are line of cases against the petitioner, however, he is not in judicial custody except the present case, wherein also he has been directed to be released on bail.

6. Thereafter, this Court vide order dated 20.10.2023 directed the concerned Jail Superintendent, Tihar Jail, Delhi to file status report qua pending cases against the petitioner wherein production warrants have been issued and petitioner has been granted bail. Accordingly, respondent No.2/Jail Superintendent concerned filed status report dated 01.11.2023 wherein it is stated that 20 cases are pending against petitioner in Delhi and that there is no record of such cases wherein he has been directed to be released on bail after furnishing personal bond, with or without surety. So is the position in respect of other 411 cases which are pending in other States, in respect of which production warrants are with the Tihar Jail.

7. We are constrained to note that due to disputed status of cases



against the petitioner, he has not been released and forced to stay behind bars. Taking serious view of this matter, this Court issued verbal directions to the CMM, Patiala House Courts, New Delhi to inform status of cases pending or disposed of, against the petitioner.

8. In the post lunch session today, vide Communication of even date i.e. 16.11.2023 the learned CMM has informed this Court that 07 cases (before MM-01) were disposed of and 15 cases are still pending (before MM-04) against the petitioner. The details of 07 decided cases (before MM-01) is as under:-

SL. No.	Case No.	Title	Status
1	Ct. No.19791/2016	Meena Oberoi vs. Vigneshwara Developers Pvt. Ltd.	D.O.D 26.01.2016
2	Ct. No.19787/2016	Meena Oberoi vs. Vigneshwara Developers Pvt. Ltd.	D.O.D 26.01.2016
3	Ct. No.19786/2016	Meena Oberoi vs. Vigneshwara Developers Pvt. Ltd.	D.O.D 26.01.2016
4	Ct. No.19780/2016	Meena Oberoi vs. Vigneshwara Developers Pvt. Ltd.	D.O.D 26.01.2016
5	Ct. No.19777/2016	Meena Oberoi vs. Vigneshwara Developers Pvt. Ltd.	D.O.D 26.01.2016
6	Ct. No.19776/2016	Meena Oberoi vs. Vigneshwara Developers Pvt. Ltd.	D.O.D 26.01.2016
7	Ct. No.34710/2016	Meena Oberoi vs. Vigneshwara Developers Pvt. Ltd.	D.O.D 02.01.2023

9. The details of 15 pending cases (before MM-04) is as under:-



Sr. No.	New CC No.	Title	NDOH
1	19690/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
2	19569/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
3	32885/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
4	32882/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
5	32884/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
6	19576/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
7	32886/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
8	43809/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
9	14185/2017	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
10	43810/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
11	43813/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
12	32883/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
13	19577/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023



14	19683/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023
15	43811/2016	A.S. Bhardwaj vs. Vigneshwara Developers Pvt. Ltd	24.11.2023

10. Learned counsel appearing on behalf of petitioner has drawn attention of this Court to order dated 24.08.2023 passed by learned MM-04, a copy of which has been placed on record of the present petition, to submit that above mentioned 15 cases, which are shown to be pending for 24.11.2023 before MM-04, petitioner has been directed to be released on bail and also the condition of furnishing surety bond has been waived off.

11. At this stage, learned counsel for petitioner further submits that the status of cases pending in Saket Court Complex against the petitioner is also not clear. The details whereof has been given as under:-

Sr. No.	Case No. (u/S 138 NI Act)	Case Year	Case PS	Case Status	Remarks/status
1.	635741	2016	KALKAJI	PENDING	NDOH 01.02.2024
2.	635742	2016	BADARPUR	PENDING	NDOH 01.02.2024
3.	635743	2016	NOT APPLICABLE	PENDING	NDOH 01.02.2024
4.	3715	2015	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
5.	3716	2015	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE



6.	3717	2015	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
7.	3718	2015	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
8.	CS/DJ/210280	2016	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
9.	2933/1	2014	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
10.	2934/1	2014	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
11.	2935/1	2015	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
12.	203	2015	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
13.	204	2015	NOT APPLICABLE	PENDING	NDOH AND BAIL NOT AVAILABLE
14.	509	2016	NOT APPLICABLE	PENDING	NDOH 17.11.2023
15.	512	2016	NOT APPLICABLE	PENDING	NDOH 17.11.2023

12. In the light of the fact that the status of cases pending against the petitioner is highly disputed, we find that interest of justice would be met if the exact position and status of cases pending against the petitioner before different courts is examined.

13. Accordingly, learned Principal District & Sessions Judge, Patiala House Courts, New Delhi and learned Principal District & Sessions Judge, Saket Court Complex, New Delhi (District South and South East



both) are hereby directed to verify the status of cases against the petitioner, whether pending or disposed of; whether petitioner has been granted bail or not; the dates of the relevant orders (preferable to annex copies thereof) whereby petitioner has been granted or denied bail and if consequent to the bail, petitioner has furnished personal bond/ or surety bond; and file status report within one week. Upon receipt of the status report, Registry is directed to furnish a copy of the same to the learned counsel for the petitioner as well as Jail Superintendent concerned at least two days before the next date of hearing.

14. Upon receipt of advance copy of the status report from the office of learned Principal District & Sessions Judges, the learned counsel appearing on behalf of the petitioner as well as concerned Jail Superintendent, shall verify the status of cases as per their record and file status report within a week thereafter.

15. The Jail Superintendent concerned shall specifically mention in the status report:-

- (i) The cases wherein petitioner has been released on bail and if not, whether due to non receipt of order or specify the reasons thereof.
- (ii) If in any case production warrants have been issued or there is any direction/ order that petitioner shall not be released without prior permission of the Court, the Jail Superintendent shall communicate in writing to the said Court and get information in respect of pendency or disposal of the said case and mention it in the status report.
- (iii) The Jail Superintendent concerned shall also send a



communication to the courts of other States to seek status of cases against the petitioner, whether pending or disposed of, wherein production warrants have been received.

16. We reiterate that the aforesaid directions have been given in view of the fact and situation that petitioner has filed the present petition in the form of habeas corpus submitting that despite being admitted to bail in all the cases pending against him, the Jail Authorities concerned are keeping him under illegal detention, which fact has been disputed by learned counsel appearing on behalf of the respondents.

17. A copy of this order be transmitted to the learned Principal District & Sessions Judges concerned for information and necessary compliance.

18. For reporting compliance, list on 28.11.2023.

SURESH KUMAR KAIT, J

SHALINDER KAUR, J

NOVEMBER 16, 2023

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