

Court No. - 37

Case :- HABEAS CORPUS WRIT PETITION No. - 886 of 2023

Petitioner :- Smt Mantasa (Corpus) And Another

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Pavan Kumar

Counsel for Respondent :- G.A.

Hon'ble Manoj Bajaj,J.

1. Petitioner no. 2-Sohel has invoked extra ordinary writ jurisdiction of this Court under Article 226 Constitution of India for issuance of the writ in the nature of habeas corpus for release of detainee - Mantasa, daughter of respondent no.4-Mohammad Naushad.

2. Learned counsel contends that petitioner no. 2 - Sohel and detainee - Mantasa have performed marriage on 17.8.2023 and both were residing together since then. However, on 1.8.2023 when petitioner no. 2 - Sohel went for his work, respondent no. 4, father of detainee, took away his wife and since then she is in illegal confinement of respondent no. 4. He prays that necessary directions be issued for release of his wife.

3. While rebutting the prayer made by learned counsel for he petitioner, learned counsel for the State has produced the order dated 18.9.2023 passed by Child Welfare Committee, Kasganj (which is kept on record) and contended that pursuant to the complaint made by respondent no. 4, Case Crime No. 256 of 2023 was registered against petitioner no. 2 Sohel for alleged commission of offence punishable under Sections 363, 366, 368, 323, 376 IPC and 11/12 and 3/4 of the Protection of Children from Sexual Offences Act, 2012 at police station - Sahawar, District

Kasganj. He submits that pursuant to the order dated 18.9.2023, the daughter was handedover to the father and since then she is residing with his father.

4. Upon considering the submissions of leaned counsel for the rival parties and considering the background of this case, it transpires that the custody of daughter of respondent no. 4 cannot be construed as illegal as her custody was entrusted to the father in accordance with law.

5. Resultantly, this Court is not inclined to exercise extra ordinary writ jurisdiction. Accordingly, the writ petition is dismissed.

Order Date :- 18.10.2023

S.K.S.