

Court No. - 13

Case :- HABEAS CORPUS WRIT PETITION No. - 23310 of 2021

Petitioner :- Mustafa And Anr.

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home And Ors.

Counsel for Petitioner :- Sameer Singh, Devansh Vikram Singh

Counsel for Respondent :- G.A., Durgesh Kumar Saini, Kshitij Chandra, Rohit Srivastava, Shobhit Kant

Hon'ble Karunesh Singh Pawar, J.

1. Case called out in the revised list.
2. None appears for the petitioners neither any one has appeared for respondent Nos.3 to 5 however, learned A.G.A. is present for respondent Nos.1 and 2.
3. Instructions/report produced by learned A.G.A. is taken on record.
4. Perused the record.
5. This petition has been filed by the detainee Fiza through her father Mustafa praying for the following relief:-

Issue a writ, order or direction in the nature of Habeas Corpus commanding the opposite party no. 3 to 5 to produce the detainee "Fiza" (Petitioner No. 2) before this Hon'ble Court and set her at liberty.

6. The detainee is presently in the custody of opposite party No.5 who is the mother and natural guardian of the detainee. It appears from the record that the respondent No.5 was subjected to harassment in her matrimonial home and was compelled to live separately along with detainee. Regarding the atrocities committed upon her, she has given application to the concerned Mahila Thana. The detainee has been vaccinated. The vaccination chart of the detainee is on record along with counter affidavit filed by opposite party No.5.

7. It appears that detainee is being taken care by her mother. It also appears that complaint case bearing No.3657/2021 has

been filed by Moharram Ali who is father of the deponent to whom this petition has been filed against the opposite party No.3 and others. There appear to be disputed question of facts for which thorough inquiry is required which can only be conducted by the appropriate civil court. Looking to the facts of this case, this Court does not feel it appropriate to exercise the extraordinary jurisdiction under habeas corpus accordingly, the petition fails and is ***disposed of*** however, the parties shall be free to approach the appropriate court for custody of the detainee. All pleas are left open to be taken by the parties before the competent court.

8. Till any order regarding visiting rights is passed by such competent court, the order dated 02.11.2022 passed by this Court shall continue to remain in operation.

Order Date :- 11.12.2023

Saurabh Yadav/-