

Court No. - 13

Case :- HABEAS CORPUS WRIT PETITION No. - 284 of 2023

Petitioner :- Uzma Ashfaq Thru. Her Husband Mohd. Irfan Khan And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home, Lko. And Others

Counsel for Petitioner :- Rakesh K. Tripathi, Pankaj Kumar Mishra, Shailendra Kr Singh Yadav

Counsel for Respondent :- G.A.

Hon'ble Karunesh Singh Pawar, J.

1. Heard learned counsel for the petitioners as well as learned A.G.A. for the State-respondents.

2. In view of the proposed order being passed, notices to respondent Nos.3 and 4 are dispensed with.

3. By way of this petition, the petitioner has prayed for the following relief:-

"(i) issue a writ order or direction in the nature of Habeas Corpus to opposite parties concerned to produce the petitioners/detenu before this Hon'ble Court in the interest of justice.

(ii) issue a writ order or direction in the nature of Mandamus Commanding to the opposite party concern to set free the petitioner/detenu at their liberty and not to curtail their fundamental right as guaranteed by Article 19 and 21 of the Constitution of India in the interest of justice.

(iii) issue a writ order or direction in the nature of Mandamus Commanding to opposite party concern for better future to give the custody of the petitioner/detenu no. 2 to the deponent who is father/natural guardian in the interest of justice.

(iv) issue any other writ or direction which this Hon'ble Court deem just, fit and proper under the circumstances of this case, and

(v) allow the writ petition with cost."

4. This petition has been filed by the detenu Nos.1 and 2 to their next friend, natural guardian/father Mohd. Irfan Khan.

5. Learned A.G.A. has opposed the petition on the basis of the

written instructions received by him from the concerned police station-Shahabad, District Hardoi. He submits on the basis of the instructions that due to cruelty of the husband and in-laws, the wife came to her parent's house out of her own will and is living with them, she has not been illegally detained.

6. Instructions dated 15.09.2023 provided by the learned A.G.A are taken on record.

7. A perusal of the instructions as well as the application address to this Court written by detainee reveals that due to the cruelty committed by her husband and her in-laws, she is residing with her parents out of her own free will. She has not been illegally detained. The respondent No.3 being mother of detainee Nos.1 and 2, it cannot be said that it is a case of illegal detention as she is natural guardian therefore, the writ of habeas corpus lacks merit and is accordingly ***dismissed***.

Order Date :- 8.11.2023

Saurabh Yadav/-